

# MORGANTOWN BOARD OF ZONING APPEALS

## MINUTES

June 21, 2006

6:30 P.M.

City Council Chambers

**Members Present:** Nick Iannone, Bernie Bossio, Mark Furari, Jim Shaffer, and Jim Rockis

**Staff Present:** Christopher Fletcher

N. Iannone opened the Board of Zoning Appeals meeting and explained the rules and regulations set forth for the meeting.

### **Matters of Business:**

Motion to approve April minutes by Shaffer; seconded by Furfari. Motion approved unanimously.

Motion to approve May minutes by Rockis; seconded by Shaffer. Motion approved unanimously.

**Old Business:** NONE

### **New Business:**

**CU06-05 / Kane-Core / University Avenue:** Request by Kane-Core for conditional use approval from zoning ordinance, Article 313.05, *Building Height and Use* for property bounded by University Avenue, Chestnut Street, Moreland Street, and Kirk Street; Tax Map #28A Parcels #27, 28, 29, 30, 31; a B-4, General Business District.

Fletcher read the staff report and summarized the project stating that the applicant has submitted exhibits that detail the scale, scope, and extent of the proposed high-rise, mixed-use building, including the Application; Site Plan; 3-Dimensional illustrations; Shadow Study; Pedestrian Wind Design Review; and, Traffic Impact Study.

Fletcher gave a brief project synopsis of the "Riverview Center on Chestnut", which included: A development program that includes an entire downtown city block (approximately 39,900ft<sup>2</sup>); The site is currently vacant and used for parking primarily by an adjoining car dealership; The proposed height of the high-rise building is 19 stories or approximately 230'; The structure will include 9,797ft<sup>2</sup> of retail space fronting University Avenue and 402 apartment units (1,005 bedrooms) primarily accessed from Chestnut Street; The gross floor area of the building is 492,021 ft<sup>2</sup>; The estimated construction costs for the project is \$65 million; As off-street parking is not required in the B-4 Zoning District, nine (9) internal spaces are proposed as loading facilities and for property management personnel.

Fletcher explained that the proposed development requires the following approvals: Planning Commission – Minor subdivision (APPROVED JUNE 8, 2006); Planning Commission – Site plan approval for a Major Development of Significant Impact (APPROVED JUNE 8, 2006); Board of Zoning Appeals – Conditional Use approval of a building exceeding 10 stories or 120 feet in the B-4 District; Board of Zoning Appeals – Variance approval for side setback requirements (2 ½ foot variance from Kirk Street side and 4 ½ foot variance from Moreland Street side)

Fletcher stated that The Design Review Committee examined the proposed development on May 24, 2006. After an extensive presentation and discussion, the Committee voted to make the following design recommendations: That the sidewalk design and installation, including plantings and street furniture, along Chestnut Street compliment the Streetscape Improvement Project currently underway along High Street; That the design of the north and south elevations be modified to include architectural techniques that differentiate the “top” of the building from its “middle” thereby creating a unique visual interest when observed from a distance.

Fletcher summarized the conditional use classification of buildings exceeding 10 stories or 120 feet in the B-4 District are in order. He explained that prior to the January 3, 2006 major zoning ordinance amendment; residential buildings in the B-4 District were restricted to a maximum of 200 feet in height. The January 3, 2006 zoning amendment repealed this height restriction but incorporated a new set of review standards for buildings exceeding 10 stories or 120 feet by classifying them as conditional uses and thereby subject to BZA review. Specifically, the zoning ordinance provides that the BZA is to consider the following information when reviewing B-4 height-related conditional use buildings [Article 313.05 (A)]:

1. An **air flow analysis** conducted by a licensed architect or professional engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity, and how those impacts may affect existing properties within a 300 foot radius of the site.
  - a. The RWDI Pedestrian Wind Design Review found that, with the design modifications considered in the original study, wind conditions around the proposed development will:
    - i. “Remain suitable” at the main entrance along Chestnut Street and at the southwest corner of the development
    - ii. “Remain suitable” throughout the courtyard for standing in the summer and “comfortable” for standing or walking in the winter
2. An analysis of the impacts of the proposed building on **sunlight distribution** in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.

- a. Perfido Weiskopf conducted a shadow study spanning from 9 AM to 6 PM in March, June, September, and December. Illustrations are included herein, however the animation will be presented during the BZA hearing.
- b. The design firm demonstrated in their presentations to the Design Review Committee and the Planning Commission the following findings:
  - i. The site is situated such that there are no urban or public open spaces, to the North, East or West that would be adversely affected by shadows cast by the proposed building throughout the course of each seasonal change.
  - ii. Given that the site is surrounded by existing buildings, the cast shadows would fall primarily on the roofs of surrounding buildings.
3. An analysis of the potential of “stepping back” upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize canyon effect of non-recessed tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
  - a. Refer to RWDI and Perfido Weiskopf analyses and the “stepping back” technique achieved in the 3-dimensional renderings and floor plans.
4. An infrastructure and **traffic analysis** predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city.
  - a. The Traffic Impact Study prepared by Trans Associates anticipates no significant degradations in levels of service within the study area with proposed mitigation measures that included:
    - i. Installation of a stop sign existing the site driveway
    - ii. Installation of a westbound left turn prohibition from Kirk Street onto University Avenue
    - iii. Installation of a one-way sign at the intersection of Kirk Street and Chestnut Street clearly indicating the existing one-way traffic flow of Chestnut Street
    - iv. NOTE – Perfido Weiskopf also suggested at the Design Review and Planning Commission meetings that a stop sign should be considered for the westbound approach of Kirk Street at its intersection with Chestnut Street. The anticipated effect is to slow vehicular traffic approaching the development to increase pedestrian safety where site vision is limited due to an existing building (northeast corner of Kirk and Chestnut).

- v. The City Engineer and the Traffic Commission will consider these signage installation suggestions.

Fletcher stated that the development team has maintained an open dialogue with city departments, Morgantown Utility Board, Morgantown Parking Authority, and MountainLine Transit concerning existing levels of public services in relation to the proposed development. The Planning Department has not been informed by said entities of any severe negative infrastructure impact that would lead to a recommendation of conditional use denial. Fletcher submitted a memorandum dated June 20, 2006 to Board Members detailing the City Engineer's comments concerning the Trans Associates Traffic Study that required additional information and clarification. Fletcher noted that the memorandum was intended to be an addition to the staff report.

Fletcher stated that staff concurs with the "Findings of Fact" as submitted by the applicant and recommends approval of the conditional use as requested.

Mark Marino from Kane Core was present at the public hearing and gave a presentation to the Board. Mr. Marino introduced the development team; they are Jason Lentz, from Stonehill; Alan Weiskopf, Kevin Wagstaff and Tony Patassi from Perfido Weiskopf, Wagstaff and Goettel; Scott Dockett from Campus Advantage, operations and management of the building; Michael Gioulis, Historic Preservation Consultant; Mac Nicholas from ERA which did the Economic Impact Study; Jamie Ridgeway from March Westin. He stated that Riverview is a suite style apartment building containing 402 residential units, housing approximately 1000 residents. Riverview will also contain 10,000 square feet of retail space fronting University Ave. And amenity spaces on the third floor, which will contain a fitness center, tanning facility, cyber café and study room, mail room, courtyard terrace and green space all secured by a single point of access from Chestnut Street with a 24-hour security desk.

Alan Weiskopf, architect from in Pittsburgh, started the power point presentation and discussed urban context and site. He continued that Michael Gioulis will speak on the historical aspect and architecture, Kevin Wagstaff will give the building design from the exterior aspect with three dimensional views and how it relates to the streetscape, and lastly, there will be a team effort in part five for the environmental aspects, such as shadow studies and traffic impact.

Weiskopf continued with the presentation. He pointed out the different dimensions of the city and how they relate to the proposed project. He discussed walking distances and pedestrian traffic, relationship to key features, especially the PRT, and the relation to the Caperton Trail. The topography of the site was shown and discussed. Mr. Weiskopf stated that there is twenty-four (24) feet of grade from Chestnut Street to University Avenue. Weiskopf concluded with different views from the project looking in all directions.

Weiskopf introduced Michael Gioulis, historic preservation consultant, which talked about the historical aspect of the project. Gioulis gave a brief history of the high-rise. The presentation showed where the historic contributing structures were; it was stated

that this site was not in an historic district. Gioulis discussed surrounding properties such as the Federal building and Hotel Morgan, the Warner Theater and parking structures. He continued that they are not directly relating the building to any historic detailing; however they did want to integrate the building into downtown Morgantown. Gioulis continued that the team has not discussed the “U” shape of the building, which will provide light to the interior rooms.

A Kane Core representative discussed the interior of the building. He stated that there will be 10,000 square feet of retail on the first floor only, the second floor will be apartments with curb cuts above for trash, a few parking spaces, service support, maintenance, and bicycle storage; the third floor, ground level from Chestnut Street, will be the main entrance. The third floor will be the amenity spaces such as a lobby, a study lounge, mail room, 24 hour security desk at the main entrance, and drop off lane, all centered on a hard surface court yard. He sustained that the court yard will be forty (40) to sixty (60) feet wide. The fourth floor would be mostly residential with a corridor lobby connecting sides, which will be served by elevators. He also stated that most units would be three-bedroom, with some two-bedroom units, and a small amount of one-bedroom units. Each unit will be furnished with a washer and dryer. He concluded that the seventh floor will have a multi purpose room for special events and that the top floor steps back on the University Avenue facade.

Kevin Wagstaff discussed the exterior of the building. Views were shown from different areas, such as the Westover Bridge, University Avenue, High street, from the river between the existing condominiums, and closer view looking up. Mr. Wagstaff also showed slides of the building in the evening stating that since the structure will be the tallest in Morgantown, the team wants a presence at night. He stated that they are considering dryvett and exploring brick for darker colors. He also added that ideas from the Design Review Committee and Planning Commission have been incorporated into the design elements. The window configuration and type were also discussed. He added that there would be a projecting canopy from Chestnut Street.

A Kane Core representative discussed the slides of the shadow study and stated that the wind study has been given to the appropriate people. He also stated that they have a diagram of the move in and out plan. He continued that these fully furnished apartments and students will only be moving personal effects. He further discussed the shadow study and the computer generated models. He then gave a shadow plan of that particular day and stated that no public parks will be affected.

A suggestion was made for the placement of a stop sign on Chestnut Street.

Scott Dockett, from Campus Advantage discussed the move in move out plan. He stated that they have a similar student community in downtown Austin, Texas, which has been in place for the past thirty (30) years. Mr. Dockett stated that students would be assigned move in times according to last names, and each would have the same 12-month lease period. He continued that on move in/out dates, they reserve the elevators and cone off the street to manage traffic flow.

Mark Marino discussed the issue of parking. He stated that even though there is not a parking requirement in the B-4 District, from a marketing standpoint, it is a necessity, since 70-80 percent of students will have vehicles. He continued that they have worked diligently to solve this problem. They have been in contact with the two main public transportation entities, WVU PRT and Mountainline Transportation Authority. Mr. Marino affirmed that both have agreed to accommodate with WVU offering more PRT cars and the Mountainline placing a bus stop in front of the building. He continued that the Morgantown Parking Authority has agreed to give 300 spaces in the downtown garage, 200 spaces in the Wharf garage and 50 in the University Avenue Garage. These spaces are not guaranteed and they are working with Tom Arnold. He stated that when the Parking Authority does not want these cars stored or when demand rises, they will lose these spaces. Mr. Marino affirmed that they are looking towards a 700 space fenced, lighted, secure parking area in Westover. He continued that George Marshall and Jim Petito have agreed to a 12-acre area across the river from the power plant. Mr. Marino stated that it would be a park and ride with Campus Advantage managing a shuttle service.

Kane Core concluded by thanking the Board for consideration.

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*The minutes are verbatim for this portion of the meeting as requested by the City Attorney*

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**Iannone:** Does the Board have any questions? I'm sure you do.

**Bossio:** Mark, my name is Bernie Bossio. Just a few questions for you. I was confused on one of the issues. The elevation change from Chestnut to University is 24 feet, is that correct?

**Marino:** Roughly, yes.

**Bossio:** And I believe, Kevin, you said that when you get to Chestnut Street, that would be the third floor? Is that correct?

**Wagstaff:** That is correct.

**Bossio:** O.K. So, there is 24 feet there? For that, the first two floors?

**Wagstaff:** Well, it, it's the steps, it's the second floor and third floor have steps. A couple feet, so, out at University, from the first floor to the second floor is 15 feet. And from there on up eleven eight (unintelligible). At the Chestnut, the third floor from University will come across and step down a couple feet and then be at Chestnut. All this is in approximation because University and Chestnut each slope as well. A cross slope of maybe four feet.

**Kane Core Rep:** But generally that is correct. Chestnut is a level entrance; fully accessible entrance into the third floor and University is a fully accessible entrance into the first floor retail. The second floor is in between.

**Bossio:** O.K.

**Bossio:** And you have a mixture of apartments- two bedroom and three bedrooms. Is that correct?

**Marino:** One, Two, and Three bedroom units.

**Bossio:** And what are the square footages of each one of those bedrooms- one bedrooms, two bedrooms, and three bedrooms.

**Marino:** One bedroom is 450; the three bedroom is 1050; and Alan can you help me with two twos?

Speaking not into the microphone. Unable to determine.

**Marino:** I think that changed.

**Kane Core:** 795 almost 800.

**Bossio:** 795 for the two bedrooms?

Undetermined speaking.

**Kane Core Rep:** Correct.

**Marino:** And if I could point out, the one bedroom, the one bedroom suites have one bath; the two bedroom have two baths, and the three bedroom, as Alan pointed out early, have two baths with one of the bedrooms, we'll call it the master bedroom would have it's own private bathroom. But the two residents that would share that bathroom would have their own sinks and vanity. They would just share the shower and the toilet facility.

**Kane Core Rep:** (not into microphone) And the one bedroom would be a vary small percentage, I think around 32.

**Marino:** 32 one-bedroom units.

Speaking by a Kane Core Representative not into microphone.

**Bossio:** You mentioned the parking, Mark, with Mr. Petito and so forth. And I wanted to make sure that I understood something with the parking. With Tom Arnold and the City of Morgantown Parking Authority, you have those 300 spaces. Two hundred at the Wharf Parking Garage.

**Marino:** Correct.

**Bossio:** And those will be reserved for you for a year, one month, two months?

**Marino:** Where's Tom? Is Tom here tonight? It's going to be on a temporary basis, and I'm sure Tom will elaborate that he is not going to pull that permit so to speak in mid lease. But I'll, I'm going to let him speak to that.

**Tom Arnold:** Thank you for the opportunity. We think this is a great project. Number one, we operated only in a B-4 zone. That's why the parking authority exists. We don't exist any where outside the B-4. These types of projects is what we live for. We do have space and we did not make a long term commitment to that. Because what we're looking at is, we actually exist off shared parking program. That's what makes us successful. What we're looking for is to help them out on the initial. It helps us out. But also as the Wharf District develops other things develop. Because what this brings to our community is going to be far reaching other than just 1000 students parking their car somewhere. We're going to have all these ancillary services and programs that we're very interested in the ability to service. So, those are the things we are keeping our eye on because if we work with the property owners such as Jim and George they want to develop a property to take care of adequately. Storage of vehicles. Parking garages are traditionally not great storage vehicles because when you have an expense you are tying up those spaces for long periods of time. So on a temporary basis, it kind of helps us because we watch development going we are going to wean those off. Presently the Parking Authority only takes care of 250 overnight permitters. These are people living in apartments in and around the downtown. Mostly 95% are students; we have about 5% that are not students. But it is a management program. And it's a great mix. We see this is a great mix. That's why we choose at 300. We looked at our total program, we have over 2000 spaces that are available in the downtown on a daily basis. They are not fully utilized on a daily basis. So these types of projects as they begin we can start to manage them and look at ways we can service them in different areas making sure we continue our shared parking program. That's what makes us successful. So, storage in long term in a safe place, in a, not just building a parking lot out in the middle of no where and putting cars out there without security, without adequate protection. Because that's the key. If I'm going to park my car anywhere, I want it protected. And so these are the things that we are looking for them and helping them on a long-term because we feel that is our job. And. But the thing that we are really looking at is the influence this is going to have on the downtown bringing in, what we were talking about 10,000 feet of retail space that's what we are looking at. How do we take care of those customers? How do we take care of those workers?

**Bossio:** Tom, do you have the 200 spaces at the Wharf garage that Mark had mentioned? What is your occupancy down there right now?

**Arnold:** Our occupancy rate on, and it varies. Beause...

**Bossio:** In the Wharf garage.

**Arnold:** In the Wharf Garage. It varies right now, between 20-40 percent on a daily basis. It'll fluctuate.



**Bossio:** (more than one person speaking) space that you have allotted? That you have down there.

**Arnold:** Yes.

**Bossio:** How many do you have, total?

**Arnold:** Total we have over 316. We have over 316 spaces.

**Bossio:** So they are going to take 2/3 roughly of yours.

**Arnold:** Yes.

**Bossio:** And will that be a designated floor area?

**Arnold:** No. Well we really haven't . We have not. No. Our permit system does not dedicate to one space per person. We kind of work on a rule where it is a 30 percent rule and just like all our garages. We kind of. Because of management programs you over sale your permitting program because not everyone is always there all at the same time. It does kind of hinder your shared parking program but right now we don't see a hindrance. We're looking at when the wharf starts to develop, then we are going to start pulling and weaning these things off and we'll do these things economically. These permits will rise. The cost of the permits. And as we see the development of our mass transit, which is really I think is very exciting and with Mountainline and PRT things are working with the university and how it's going to generally effect our entire community. We think it's a natural. It's concentrating people in an urban setting. It's not people having to drive from various places to get downtown. They are already downtown. They are working out a shuttle program to move these people to the out skirts of town, which not only Kane Core, but the entire structure we need to look at that. So that we don't everybody has a car to come back and forth to go home but naturally, they can walk within five to ten minutes they are on campus. So it makes a lot of sense on the parking situation and the mass transit situation. It's gonna really help us with congestion in the downtown area.

**Shaffer:** Tom you have no intention of changing the posture on the Pleasant street garage then?

**Tom:** Yeah, well, the Pleasant Street garage has availability right now. It's not fully utilized. And on their move in move out day, you've got 68 spaces right next door to them. They could utilize we have a lot of on street spaces on Foundry Street, coming up Chestnut and past they are not fully utilized. Since the Post Office moved down town a lot of that has opened up, so. Yeah on the south end of town we got a lot of things that we could do to help this type of development out. And if this thing becomes more and more, we have the opportunity to develop more and more. But we really wouldn't be developing parking garages to store vehicles, on a twenty-four hour basis.

**Bossio:** Mark, will the leases that you are going to do across the bridge, over on the properties. Is that Tower Lane or Monongahela Avenue down there?

**Marino:** Yeah, it's Mon Ave

**Bossio:** OK. Those will be leases from the onset. In other words you are not waiting until Tom starts pulling spaces away and then start to...

**Marino:** Correct. Absolutely. We won't have enough spaces in the City garages, And again, we came from a marketing standpoint tell residents of this building you're on your own. So we have to be able to provide those spaces.

**Bossio:** One of my last questions, so for is, as far as our findings of facts. Safety from fire and all that stuff have you worked with the Morgantown Fire Department with hydrant places?

**Marino:** I was with Max today and I can assure you we will meet every demand he wants. We went over fire detectors; we went over a smoke management plan today, and numerous numerous things. Working with Morgantown Utility Board as we speak so we have been addressing those issues and we will be glad to do the fire hydrant placement and make sure we have our fire pumps. We have, you know, very competent mechanical, electrical, and plumbing engineers on board that are looking at all that. And I can assure you whatever needs are required by that building, we'll be able to supply, as far a pressures and volume.

**Bossio:** Thank you.

**Marino:** Thank you.

**Iannone:** I see a question. Jim

**Rockis:** How far away are the parking garages? You know, the liner footage wise.

**Marino:** I probably won't be able answer with an accurate statement, but I can say all within five minutes of walking.

Speaking not into a microphone.

**Marino:** Yes.

Speaking not into a microphone.

**Kane Core Rep:** The inner circle is a quarter mile, which is generally a five-minute walk

**Marino:** Yeah, yeah that's the one facility right there. You have. Where is Decker's Creek? Where is Decker's Creek?

**Iannone:** That's it.

**Marino:** Right in there is the Wharf garage, and then you have the other facility right there.

**Kane Core Rep:** That's all within a five minute radius.

**Rockis:** So are any of them within, say, three hundred feet then?

**Kane Core Rep:** No, they are all beyond three hundred feet.

**Marino:** Maybe as the crow flies, but if you want to get to the Wharf District, if you don't want to walk over University Ave you have to go underneath the underpass. The Caperton Trail brings you right there.

**Rockis:** And, do you? Have you done any projects of this scale in any other cities?

**Marino:** This is certainly one of the biggest projects there will be in the country. As Scott alluded to before, there is certainly plenty of these in an urban environment. But if you are asking if Kane Core has? No, but our development team certainly has. Jason can speak, you know, for Stone Hill and his experience with the student housing projects and Campus Advantage.

**Kane Core Rep:** ( Speaking not into the microphone.) I've worked for the last five years for two different companies that's done nothing but student housing. Some have been in more urban environments such as this or bigger cities with institutions. Parking is handled on a case by case basis we have projects that we bought shuttles to shuttle people to their cars. The environment basically dictates that a student parking their cars Monday and they weren't using them again until Friday because they were walking to campus maybe they weren't using them on the weekends. Other opportunities were provided (not speaking directly into microphone) with 1:1 ratio right outside their front door. But this Scott has talked about also as well these problems have come up with a bigger market (speaking not directly into microphone) parking situation.

**Rockis:** How do the folks that live in these. You know, do they have a sense of or could you give me a sense of how they, how they like a large facility like this?

**Kane Core Rep:** I think that In the large facilities that I've been involved with the response has been great because it, without being on campus it still keeps you in an environment with your classmates and other students versus being in small little. Plus there are apartments all over different environment where maybe you live with 6 or 7 people. These larger buildings, especially those that are apartment style or suite style have their own bathroom The students get to be part of a bigger group, and have the activities that Campus Advantage will arrange Resident's Life Program. And what we have seen the five or ten minute walk to campus far out ways the fact that their car may not be there where they can get to it easily more because they are more concerned with their walk to class than they are with their walk to their car.

**Kane Core Rep:** One of the bigger appeals to this kind of housing, student housing university housing is that it appeals to parents because the building has 24 hour doorman building. It's a 24 hour secure building as opposed to renting a small lock up apartment

**Kane Core Rep:** In all likelihood there will be more females than males in this building.

**Marino:** Jim, if I could have Scott maybe expand on what students think about these buildings. He deals with them everyday from a management perspective in this same environments.

**Scott:** Well, umm, there are more than two dozen similar type high-rise student-housing properties around the US. Located in different markets. Some of them are 30 years old. There are some that are new. In fact there are two that we are involved with right now that are in some form of development phase. It appeals to students because you can live in an area where you have the active social activities, as well as access to the University. And the sense of being in such a large structure we administer a resident life program that is similar to many universities. We have, we'll have over 20 resident assistance who live in these buildings. There will be one on each floor. And then double on some floors. They know the names of every person living on their floor. We host social activities, uh, one to two times a month. We bring in academic assistance for student development and we organize community involvement activities, such as blood drives, or uh, or you know fund raising activities or adopt a street. So, really by living in these communities they get the sense of a community with their students interaction that we build and we find that many students remain in these types of buildings for two or three years while they are going to school.

**Rockis:** See, I wish you would all have been here sooner and back then we, we, as you well know kind of crafted a new zoning ordinance here in the past year, but prior to that, prior to that, worked on it for, I don't know, three years. And what you just told me is total contrary to what the fellow that we had come in from Pittsburgh, that the City spent a tremendous amount of money on. He told us that the students like to live in smaller facilities and that was one thing we wrestled with when we developed the, the multi-family zoning district. And, in, that is why like particularly in the Sunnyside areas and what not I believe we went up to four stories. And he just, it was like pulling teeth with him even to get the four stories out of him. You know, it's so.

**Kane Core Rep:** Well, our team.

**Rockis:** What did we do wrong?

**Kane Core Rep:** I, I can't answer that. And I'm not sure the circumstances around his, his presentation, but our team has over 200 years of doing student housing, and, uh, the trend that we are seeing with students is not necessarily living in small communities, but they want their individual space. And as you know these are, these are the children of the baby boom generation moving through. Many of them have grown up with their own bedroom and with their own bathroom, and they're not used to sharing. And the problem that comes with them going off and finding their own housing in isolated pockets is that they remain isolated and they don't get to interact and many universities now are encouraging these types of communities because it does bring students back together. They get their individual bedroom, and sometimes their individual bathroom.

But yet, their in a community where they get to meet and, and be apart of the, the university environment.

**Iannone:** Any other questions?

**Furfari:** Yeah, I have a few questions. My name is Mark Furfari. Where will a forty-foot semi-truck that's making a delivery to this building? Where will they make that delivery?

**Marino:** Those deliveries will be done just like every other business here in town. I know Main Street has delivery times and, uh, delivery schedules and they would have to pull over on the side of one of those streets to make those deliveries. The building cannot accommodate, that just, the topographical features of the site make it almost impossible to have a loading dock for an eighteen-wheeler.

**Iannone:** I had, I had a related question to that, which is the commercial space. Do they have any other access except out to University Avenue?

**Marino:** Out to University.

**Iannone:** That's the only.

**Marino:** um hm.

**Iannone:** All their deliveries will come in through the front doors on University Avenue?

**Marino:** Correct.

**Kane Core Rep:** We have approximate ten percent grade on Kirk and Moreland, as you go back from University you very quickly.....(more than one person speaking, unintelligible)

**Marino:** And if I, and if I could ad, that is part of design of this building change. Initially, we had the whole site excavated back. It ended up being so far subterranean you couldn't access the site.

**Kane Core Rep:** The loading area on the second floor off of Kirk Street, you have the egress there, that is primarily loading for, what now then? Are we, are.

**Iannone:** Residential area.

**Kane Core Rep:** For the apartment building.

**Kane Core Rep:** Deliveries, deliveries for the apartment building. They are. They are furnished apartments. And they will be housekeeping supplies, as in things like that that get delivered. There will be an over-the-head door. It will be a secured loading area. Trash will go out that way. And you will be able to get a step van in that area as well. The cable guy comes or something like that, he's there.

**Furfari:** So UPS and all of those vehicles will be off of Kirk Street?

**Marino:** UPS, we would imagine, is going to use the pull off in front of the building right there at the main entrance.

**Furfari:** In the front.

**Marino:** Yes.

**Furfari:** And how many?

**Marino:** That's where the mail room is.

**Furfari:** How many cars can that pull off accommodate, as far as size? How many cars at one time?

**Marino:** Do you have the footage there?

**Furfari:** Pull off, pick somebody up, drop somebody off, run something in?

**Kane Core Rep:** The pull off goes from right here to right here. That's a car. So, four or five.

**Kane Core Rep:** Four or five.

**Kane Core Rep:** Four or five. There could be removable (unintelligible) during move in move out. I suppose we could perhaps use greater depth, but.

**Furfari:** I see a lot of congestion there. I do. I see a lot of congestion in that area with five spots for a thousand people (microphone did not pick up). Umm, the heating and cooling. Each unit is separately contained?

**Marino:** Correct.

**Kane Core Rep:** Yes

**Furfari:** And OK. Do you expect freshman to live in this building?

**Marino:** WVU has a freshman residency requirement, so it wouldn't even be marketed to freshman. We won't take them off campus. Uh, the only way we can hope WVU does renovation and rehab of existing facilities. If those groups of students together, we'd be happy to work with them. But other than that we're not you know, that's their residence life program.

**Furfari:** So you're not competing with them.

**Kane Core Rep:** No.

**Marino:** We are not.

**Furfari:** And how are you tied in with WVU. I mean, can I live in this building?

**Marino:** No. Basically because it's financed 100 percent with tax-exempt debt, which it states that it has to be for the public good. And the public good in this case is to serve the university, so that means that the person has to be associated in some way with the University. Whether they are student, facility member, employee of the University; they have to be able to verify the fact that there is an association there. Uh, which is the other thing a lot of times as parents, that, that, that, that it is a little of comfort factorization. Not going to be at least to, you know, any one that thinks it's a good location to live in. We'd be in violation of the tax-exempt stature of the bonds and we'd be penalized financially. If we try to do that anyway. So, that, that, that, regulations of the bond will not let that to happen, They're tied in that the excess cash will every year so we have to under ride to a debt covered ratio of 1.2 the excess cash flow can't go to us as a developer or anyone else that is a core entity. So that extra cash flow will go to the University each year as a cash gift... (unintelligible).

**Rockis:** Do, do you expect the, you know, the retail, you know, area, now will that, will that be leased to someone who is involved with the University or will you compete in the private sector?

**Kane Core Rep:** What we. What we, I think what we, would be the best case scenario for everybody is to find somebody that's like a CVS, or some type of concept like that, that wants to go in because they have 1000 people right there they could serve. That's not as big of spot that they usually use, but they probably wouldn't want cause they are more focused on those 100 people, but right now our financial model we're seeing zero revenue come in from that because we're willing to take direction if there is certain, certain vendors people would like to see go in there were more than happy to do that because may have five small or local vendors we're happy with that. If it's one national retailer, we're happy with that. So, so that's basically just planned as cold shelf space and umm, and we'll, we'll go from there. Uh, I know the CVS and Walgreens have both done some campus type stores. They've done Columbus for Ohio State where they come in smaller version of the full service stores and kind of cater toward students and they, uh, have been very successful. So I think, I don't think we will have problem finding tenants for that space. The other thing is the reason it's as small as it is again, is because of financing, you can't have a for-profit entity taking up, uh, square footage amount over a certain percentage of the total area of the project.

**Kane Core Rep:** Jason, it's probably, it's probably also worth mentioning that these kinds of operations that cater to students a little more food than they normally would. This is not just a pharmacy.

(More than one person speaking; unintelligible)

**Weiskopf:** Take, that you have a full scope you could take or that you have a full scope or could take or full kitchen That type of stuff. They change there, what they're selling to kind of suite students needs more so than they would.

**Rockis:** Well, that, that brings up point to, and again, one of the things we, we talked about as we were developing the zoning ordinance. In an urban setting is that you, you know, you do want folks to live down town with business plus office space and what not. But in order for that to happen, you know there has to be somewhere they can go to get food. (Speaking not in the microphone from someone else) And you, I did not see, so you're not going to operate a cafeteria in here.

**Kane Core Rep:** Again, again, the University has its own food service program. And we, we kept them as involved as we could every step and that is not something that we wanted to step on anybody's toes again. Our residents more than welcome to continue on the University food service program, but at the same time, in all the projects that I've done, the, the main thing here for students is that if you are offering them an apartment with a full kitchen, they want the freedom to do whatever they want to do whether that is bring groceries in, whether that's use their microwave. But they don't want to be told that they have to be on a meal plan we they are paying to have kitchen there.

**Rockis:** I think you missed my question. In that, normally if you do have folks living in a down town area there has to be somewhere for them to get food because you are, you are advocating a lifestyle where you walk everywhere.

**Weiskopf:** If we could go in with that 10,000 feet and find a grocery, whether it's local or national that wanted to be kind of a scaled down version of one of their stores to operate one of their stores, we, you know we'd jump on that. That's even great cause then, someone is providing it to those 1000 kids which is a good deal for them at the same time the students could just go down the elevator and go out there (unintelligible). I do understand it with a kitchen, they're going to want, and they're going to want to have a convenient place to buy groceries.

**Rockis:** See that's one of the things that we wrestled with whenever we developed, we, we have an off-site parking ordinance, which I don't know if you're familiar with or not. But that was something that we, we as we developed that some of the questions came up, you know, is to how far away. You know, should you have parking in order for someone to use it. Now basically you're advocating a, you're going to put everybody in three mile, two miles away over by the old block company.

**Marino:** That's correct.

**Rockis:** Do you, in order for your concept to work, ok, what I'm getting at is the folks that live there have to be able to go somewhere to get food, ok. Now, you're going to be parking the cars, you know, over almost two miles away.

**Marino:** Jim, we, we are, it's certainly our intention to get a grocer in that building or another private entity or entrepreneur that's going to open up some service because they know they are going to have a captive audience of 1000 people. And I have been working for months now with Terri Cutright and the Mainstreet group on what's needed down town. And a couple different groups that I'd, you know, that I'd rather not divulge here tonight that we are, we are working with in the preliminary stages to get in the



10,000 square foot space. Now for us as developers, we'd love it if someone came in and took that whole space

**Rockis:** Right.

**Marino:** And we are working on that, but problem and the reason why I can't say here tonight without any certainty that we have XY or Z on the hook is, quiet frankly, we need to get through you folks and now there is a couple other steps here before someone is even going to waste their time talking about negotiating a lease or what needs to be in that 10,000 space and how they want it outfitted. But I can assure you there will be some service in that building that is going to take care of the residence whether it's food or it's drug store or what have you. And market conditions are going to dictate and I think you see it happening by folks, and some of them are in the room here tonight, that on speculation of this project have bought neighboring properties all around us. And our building is going to be that missing link that's going to cause the southern end of High Street to jump all the sudden and connect the Mainstreet program that's working diligently with the streetscape and everything else pull that energy down to the south end. And we will help connect the Wharf District. There is a disconnect where we are.

**Kane Core Rep:** I think when people see the construction started there is a reality that there is going to be 1000 students right there on that site. It's going to bring retailers and grocers and other people to the area. But nobody is going to come until they see something is going to happen.

**Marino:** And we will be 20, 22 months on probably making Jamie Ridgeway shake from March Westin, cause they know their under the gun in 22 months. But there is ample time in there for many of those considerations to be met.

**Rockis:** But you also must realize that in, you know, in, in planning as you are well aware, everything must work in harmony.

**Marino:** Absolutely.

**Rockis:** In that, you know, you have to have various facilities and what not in for everhting to work.

**Marino:** And that's what makes, we didn't pick this site by accident. At, we are, we are aware that almost all of the needs of somebody that is going to reside down town are met. The one missing piece, you got it, we're not hiding it, is a grocer. And that certainly will happen. We've heard it from numerous people that either live in the Wharf District or South Park or, you know, the other end of High Street that they have to get in a vehicle to go shop. And what I think you're seeing happen, happening around town here, and what we are trying to combat is, you know, the supper malls getting built far outside of town and there, you know, unless a community is built and that critical mass is kept down town. You've, you've seen it happen and I don't know if Terri Cutright is going to talk about it, but it just sucks the life out of down town. And you have super centers popping up all over Morgantown. These students are going to be here. The University is expanding; they have 750 new students this coming semester. By 2008

the numbers jump even more, those students are going to be here in Morgantown. Somewhere. Do you want them to live down town and keep their cars outside of town, or do you want them, want numerous projects to pop up that are going to gobble up your open space outside of town and have the kids drive into town. And they're going to jam up you're on street parking here and, we're trying to fix that problem.

**Iannone:** Jim.

**Shaffer:** Mark, I'd like you to talk a little more about your relationship, and you mentioned something about Mountain Line. It, it seems to me that mass transit would help answer some of this, this demand. You talked about Mountain Line providing free-of-charge transportation. Are you able to talk about that just a little bit.

**Marino:** Sure. It exists today.

**Iannone:** Right.

**Marino:** If you're a student, a WVU student, you can ride that Mountain Line transportation system where ever you want for free. That wasn't really good enough for us when we were talking about that building, so we picked up the phone and talke, you know, many times to David Bruffy down at Mountain Line. And asked him, you know we need to make this extremely convenient for the students. And we have to be able, from a marketing standpoint to offer that. And their willing because of the demand will be there to add a pick up and drop off directly in front of the building. Obviously have to give them some notice, and again, we don't have anything signed from them. But there is a letter, you know, detailing a few of those things in this power point presentation. You know, until that building starts to go we're not going to have anything signed from them.

**Shaffer:** But you have a gentleman's agreement as a word.

**Marino:** Yes.

**Kane Core Rep:** I think a lot of the questions that you're asking are the same questions that we have anticipated asking, answering from the parents of, you know, 1000 students that are paying good money to live in our project. So, you know, we've gone through it all, but again, like Mark said, no one is going to sign off on anything official until they really realize that 1000 beds are going to be coming. From a marketing prospective a 1000 kids and their families to, to pay good money to answer these questions and know how these kids are going to get the services.

**Shaffer:** Some of us here are parents as well.

**Bossio:** What do you expect the average rents or revenues.

**Marino:** I, I can go over that. And again, the construction costs will dictate any rent fluctuation either down or up. \$700, now these are per bed prices that I'm giving you.

\$700 for the three-bedroom; \$800 for the two-bedroom; and \$1000 for the one-bedroom suites.

**Kane Core Rep:** And that is, one of those are 2008 numbers, two of those are everything's included. That's your local phone, that's your basic cable, and electricity. They won't be paying any, the only thing they will be paying on top of that is their long distance phone, and since everybody use cell phone (unintelligible). That's an all in number from the.

**Bossio:** Does that include your off site parking?

**Kane Core Rep:** Yes.

**Marino:** Then the units would be.

**Furfari:** So you would be the customer of, of.

**Kane Core Rep:** Correct.

**Marino:** Correct.

**Kane Core Rep:** That would be handled through us and through Campus Advantage as far as the parking arrangement with, with, which ever way we end up going.

**Furfari:** And is the University part of any of that money flowing?

**Kane Core Rep:** The University is, will take that surplus cash flow at the end of the year. But other than that, they'll let us market to their students that are own expense. But we won't ask for an occupancy guarantee or that a certain number of students will be directed to our project at all.

**Shaffer:** A technical question that is outside my, would somebody help me with this wind study. Because I must admit I'm a little, it's in my packet and I feel that I should ask a question about it. I'm a little confused about this whole thing.

**Kane Core Rep:** It's a requirement of the City that the study be done.

**Shaffer:** I understood that.

**Kane Core Rep:** And basically, basically what these studies do, in this case they use computer modeling of the national weather service data and the prevailing winds and they take surrounding conditions and they, they look at three different characteristics. They look at standing, sitting, walking. And they model the building to determine whether this building will create adverse wind flows that would affect standing, sitting, or walking. And that's what it's really about, so that if you're on the sidewalk surrounding the building that the imposition of the building will not itself create a adverse effect for standing or walking in that case because it's not a park. But it's a sidewalk. And the results were with the, with the prevailing wind condition here that it would not have any

adverse effect. But it's, that's what it's about. It's getting rid of wind tunnels, and they will furthermore, make some recommendations for us about what we might do to mitigate any down drafts in the courtyard area. Does that answer your question?

**Shaffer:** That's snowdrifts as well? I wonder if that has any effect of snow drifts? No, but I think you're ok. Thank you.

**Iannone:** Any other questions? Well, I think we'll open it up to the public now. I'm sure we have some folks who have something to say. Would you please step to the podium and identify yourself.

**Jim Jones:** I talked you, and I apologize for not knowing the City Planner's name. I was here at the last meeting and I passed out pictures I'd taken an hour to go around Morgantown of the hillsides and the landscaping that's being destroyed and that evening, the big dig and those apartment complexes so happen. And during my presentation those buildings were all on fire and I had taken those pictures to weeks prior to that and you can see property owners that are close to the big dig they have two foot of their back yard now they could fall five hundred feet if they have children. Their property values have probably plummeted. So, I urge the zoning commission or the appeals commission, I thought you was one group so I didn't know the structure on this. However, I live at View at the Park, we have a lot of students that live there. Their parents buy condos for them and our building owner actually has properties that he leases to students and we all actually get together on a, not a daily basis, but every three months, to actually have dinner parties or social engagements. We actually I have several letters from people who live in the View at the Park, as well as Horizon Reality that has quite a bit of property for sale right next to the Kane Core Corporation there that's building this building. And those buildings are for sale and I know Horizon that some of the owners that own the commercial sites are working with one of the top organic grocery stores in the Country as well as a local vendor here that's already in the area that actually is coffee and three meals a day basically. So, it's bringing a lot of interest in so my suggestion would be building up instead of out cause I've lived here for two years. I come from Washington. And they talked about the high rises. I lived in a two tier 19 story building with students, all types of individuals and we had one square mile of 60,000 residents in Roselyn right outside of D.C. So it's good to be back home. I'm from Elkins but when I traveled her two years ago, I could see, oh my goodness, the Wharf District. I could see huge developments coming in and the scuttlebutt that I was hearing and seeing with my own eyes. I mean, it wakes you up to see, I mean Morgantown is on Forbes Magazine is probably the top, I think it was rated number five in the most small livable cities in the U.S. to live in. So, I have, like I've said, numerous letter's I'll share with you and I did pass out those pictures the other night on how the impact of, such as that huge Wal-Mart, the big dig, is effecting the beauty of Morgantown cause it's a disaster waiting to happen and, thank God those homes are not, or those high-rises are not filled. But it would have been a massive lost of life if those would have been occupied at the time and they burned probably with in a half hour. Three or four buildings. Millions and millions of dollars. So, Kane Core has worked with the City of Morgantown, the Fire Department, and it sounds like they are working with city planners and city commissioners and. I strongly urge building up

instead of out because you can see what's happening out. So I will pass these to, and you're allowed to keep these and if you could if someone has those pictures to share with this zoning appeals board. I'd appreciate it.

**Iannone:** Before you leave the podium, could you please identify yourself.

**Jim Jones:** I'm sorry, I'm Jim Jones, I live at the View at the Park. I've lived there for two years. I actually own my unit and another one I lease out to someone from New Orleans that's been displaced. So. Thank you very much for your time.

**Bill Reger-Nash:** President, members of the Morgantown Board of Zoning Appeals, my name is Bill Reger-Nash. I'm from 304 Dream Catcher Circle, Morgantown. I'm the director of community campaign called West Virginia Walks and a professor in the Department of Community Medicine, in the School of Medicine, here at West Virginia University. Permit me to address a few comments in favor the building code variance that is being requested for the Kane Core project. This project makes great fiscal and quality of life sense for our community. I am a public health professional with an interest in quality of life physical activity in eliminating the obesity epidemics that is plaguing our region and the nation since 2003, West Virginia Walks has been promoting walking for leisure and transportation in the Morgantown area. Scientific evidence indicates that increased community population density promotes more walking and less obesity among residents. On average residents of higher density communities walk approximately 70 minutes per week than residents of communities of lesser population density. Over the course of a year this amounts to walking, this amount to walking represents a loss of three or four pounds of body fat. Which can more than offset the one to two pound annually weight gain that American's currently average. The Kane Core structure fits the concept of new urbanism. Morgantown is taking many positive steps forward. We have the Sunny Side Up Development, the new marina and the revitalization efforts of Mainstreet Morgantown, which complement existing rail trail and enhance mass transportation. Without adequate planning and land use mix, traffic congestion can choke the down town area. We need to be less dependent on automobiles and more reliant on walking and public transportation. This proposed building will enable residents walk the one block to the PRT station and the rail trail, two blocks to campus, and three blocks to the new marina. Mountain Line bus stops exist in close proximity and can deliver passengers to all of the Morgantown region. As well as to the Pittsburgh down town, train station, and airport. This project is one important step towards improving land use, curtailing sprawl, and promoting a vital down town. Sprawl leads to more traffic congestion and more air pollution. Sitting across the world are realizing building additional roads does not alone solve the traffic problems. We need better and more integrated community and city planning. This increase in high quality housing will inevitability spawn more quality retail establishments, grocery stores, and restaurants in the down town area. This will all be in walking distances. I foresee new restaurants adding to our existing eateries, I foresee sidewalk cafes with people chatting and enjoying West Virginia and the WVU quality of life. I foresee families milling about the city with toddlers in strollers and children on tricycles. I foresee this project complementing efforts of mainstreet Morgantown. I foresee down town Morgantown becoming an entertainment destination for people the region and from afar. Several

years ago a very bright and talented colleague of mind moved to Morgantown from California. Because of West Virginia University and her perception to the quality of life in our area. After several years here she moved on as there was little actual community feeling in the city. People were not sharing in each others lives as she anticipated. The Kane Core project will be one additional link to enhance use of the downtown, the rail trail, the Water Front Marina, and a high quality life here and in the region. Thank you.

**Iannone:** Thank you.

**Nash:** May I leave my comments?

**Iannone:** Certainly.

**Chet Parsons:** My name is Chet Parsons, I'm Director of the Greater Morgantown Metropolitan Planning Organization, we are a regional transportation-planning agency that is federally mandated. Our jurisdiction is Monongalia County. I expect that to expand after the next census. My comments this evening are transportation related, but planning in general. Through the course of our planning study we're updating a long-range transportation plan right now. It's a 20-year horizon on this plan. We're looking at transportation issues across the region. The trends we're seeing are they're a lot of needs for the new development that is occurring on the north side of town, the outskirts of the region along West Run Road, towards where the new University High School site is. Needless to say, hundreds of millions of dollars worth of transportation improvement are going to be necessary. We won't have that money to do it. There is an extreme short fall in federal and state money to fund transportation improvements. Long story short, urban density is a definite way to address some of these issues and cut down on the cost to improve the road network. If we can focus density in the down town areas, a lot like Dr. Reger-Nash was saying, we can avoid some of these pitfalls that will definitely be here in this area over the next ten, fifteen, twenty years. Some of the things that I really like about this project. The downtown density. The parking provisions, I can see that this group has taken the extra step to address some of these issues. I'm not sure that they were actually necessary to do this, but I applaud the efforts to find the satellite parking and to work on, on the agreements with the Parking Authority to, to work with the other garages in town. The streetscape on Chestnut, I really applaud that; the blending of that with the work that is being done on High Street right now will definitely be an amenity to, to the downtown area. I would hope that additional developments that might be, might come up in the future would, would reflect this effort as they, as they develop adjacent to the property. Some of the issues that I would like to raise for your consideration this evening. The retail parking, I assume, people who would like to use the 10,000 square foot space would be in the same situation as anybody else in the downtown area. Drive around a couple blocks, waste some time looking for a parking space. But that's something to think about. The other, the other option I think needs to be considered is, right now Mountain Line Transit, is, is busting at the seams more or less. The demand for their, their equipment and services is growing on an annual basis. One of the things they are hoping to do is to improve their headways. Right now most of the region operates on thirty-minute stops. So you have to wait 30 minutes, or 45, or an hour before being able to catch a bus.

Something they are going to need to do in the future is to increase their vehicles. I don't know if that's something that can be worked into this project since you're going to have 750, 1000 students that are looking to, to use their services. But that's something that, that is definitely going to be needed by the Transit Authority in the future. So, some things for you to consider. Thank you for your time.

**Ianone:** Thank you.

**Darlene Dunn:** Hi, my name is Darlene Dunn and I am president of Mainstreet Morgantown. Obviously I am here as a supporter of the Kane Core project. Mainstreet is a grass roots organization representing the downtown merchants and the property owners. There are over 300 members of Mainstreet and we are highly recognized and awarded program. Our mission is to promote the economic development in the downtown area by attracting and retaining businesses that spur vitality and stability. As I understand, our meeting tonight, we will not be dealing with the issues, although we have talked about them several times-parking, taxes, and finances. But we will be talking about the economic impact to our downtown area. For Mainstreet and its constituents, obviously I would speak in resounding favor of the project. First for the economic development it will bring to our merchants and business in the downtown, but also for the future of Morgantown in general. I've heard Governor Manchin speak several times about economic development in the State of West Virginia. And our ability, in West Virginia, to grow and how it is negatively impact by our inability to work as a team together for economic development. We need to work together as a team to spur the economy of Morgantown and also West Virginia. The Riverview Center on Chestnut website references a economic impact of over five million dollars. How can we in good conscious not support and influx of this magnitude to our downtown area. Terri, as Director of our Mainstreet, spends much of her time courting and attracting new businesses downtown. What a great selling point it will be to have over 1000 students, young professionals living in our footprint and having a cornered market for their needs. As with all change, we will have issues. But we welcome the challenges this type of economic development growth brings to our Mainstreet program and we wish them all the luck in the world. Thanks for your time.

**Iannone:** Thank you.

**Dave Biafora:** Dave Biafora, 325 Willey Street, Metro Property Management. For once I am here talking about some one else's project. I'd like to ask a question if we can, that wasn't answered here. The height. What is the height that they are asking for?

**Bossio:** 230 feet.

**Biafora:** What is the height in a B-4 pedestrian?

**Fletcher:** If I could interject. There is no height restriction in the B-4 District. If it gets to 10 stories or 120 feet it kicks it in to a conditional use. So there is no height limit.

**Biafora:** So they're, what are they asking for in the first conditional use? For a height variance?

**Fletcher:** There is no height variance. Again, there is no height restriction. There is no maximum height ceiling in downtown.

**Iannone:** Conditional uses must come before the Board.

**Biafora:** So it's a conditional use because it's over ten stories?

**Fletcher:** Correct.

**Biafora:** OK. I wanted to make a few points here. One that, beautiful project. What a presentation. It's the most impressive I've seen. We developed a good bit in three or four counties in the area here. But as Jim Rockis said that that report is talking about smaller density projects. 40, 50, 60, 80, 100 unit complexes. We own quite a few properties around town and most of them 40, 60, 80, 100 units. People want to drive and they want to park. The parking, you are correct in talking about 70-80 percent are going to have cars here. Pretty much right on 70-80 percent and they are not going to park a mile or two away. That's a fact. They want to park at their front door and everyone pretty much knows that. These are seniors or elderlies or people without cars. The B-4 pedestrian was created to help Morgantown and get some, you know, a little bit of density. 1000 people on one acre, 1000 residents. I've got 20 acres on 705. If I put 1000 people per acre out there. It would be 20,000 people. That's a little bit dense. Now, you know, I've been told that before when we develop and we build. But, you're taking one acre and you're pounding it, it's a little bit tough. For the retail, you guys can't I good conscious think that they can lease retail with no parking. There is retail on Beechurst right now empty. But that's their business and their, and that's what they're talking about doing. For Mainstreet and the City and WVU to endorse this project is very understandable. It's money in their pocket. But as a private individual, we build over three hundred parking places, and we manage our property. We've got a better proximity to campus. We're on campus top of Willey Street. I've got 99 parking spaces. I don't have enough parking spaces. I've got 110 people who live in an 83 apartments. There's not enough parking. But since Tom Arnold built this parking garage down on the Wharf and there is so much extra parking. Maybe I can build some buildings and have some parking down there and not need my parking at the top of Willey Street. You know, we just want everybody to be treated fair. I am not against this project. Again, I'm going to say it, I want to see the project. It's great for the values of Morgantown. It's fantastic. But I believe that this building needs to be designed to fit the property. I've been told that quite a few times for the BZA. And, you know, we've worked together over the years and we've even been in arbitration. And we seem to work things out and maybe not, might not have been as pretty as a building as you all are planning building. But we've got them through. And I'm just looking for fairness and, you know, help. Everyone's looking for help. We're looking for help to as developers. And to come in and get some of the breaks you're getting, there's a lot more. There's not enough time to talk about it. But you've got to make it fit in the box guys. And in good conscious, this is probably the best BZA we've ever had. At one time Mr. Prete was on. But it's nice to see developers and people, you know, that ask the questions that need to be asked. And to decipher, and you know, you don't want to turn this project down. You want to, you want to pass this project after much



discussion. Like tabling it for a while, discuss it, resign the building to fit on the lot. And when it fits on the lot and it fits in the parameters and fits in the box. Let's move forward. But 1000 people and I've talked to many other people. And you may have some other people talking tonight. We might as well open up the Wharf with a bunch of bars and put up a satellite police station down there because when you put three bedrooms, you're going to have more challenges than one bedrooms. But there's not a lot else to say. But I think you guys know where the Board needs to decide and what they need to do. But it needs to fit in the box. And again, do your job. Thank you very much.

**Iannone:** Thank you Mr. Biafora.

**Nora McDonald:** Hi. I'm Nora McDonald. I'm a long time resident of Morgantown and I live in old Suncrest between University Avenue and Collins Ferry Road. I'm a faculty member in fashion merchandising at the University. And I've been on the Mainstreet Morgantown Design Committee since about 1990. I do think a project like this will help facilitate reasonable growth in the Morgantown area. We have been in a sprawling mode for a number of years and that has resulted in traffic headaches. We've got a couple of new projects which while they will be nice looking, and I presume functional. I anticipate quite a bit of traffic problems in my area with the Burroughs Street project and the Star City Riverfront projects. We're not talking about that tonight, but I really anticipate huge traffic problems trying to get to my house from campus. This project, I like the concept of having people near campus. My students do get in their car and drive to every single class. We have to get away from that. I do like the concept that you have thought about bicycles. I don't think you have a big enough space. How many bikes are you planning to store there?

**Kane Core Rep:** Best bet, I don't know if there is an exact count, we haven't thought about the storage that will be there. That's something is easily addressed. There is a lot of storage space that has been set aside for different areas that can become more bike storage.

**Kane Core Rep:** There's, there's, it's expandable too. That space is expandable.

**McDonald:** I have, I have visited Munich, Germany, years and years ago and then a few years ago, and in the interim, they added bike pads all throughout downtown. People use them. Right in Munich. I just visited Hilton Head, South Carolina. My husband and I didn't get in our car except to go off island. We biked everywhere. Dinner, grocery store. It was fabulous. So I would love to see you do that. I'd like to see that there is a safe way to get down to the bike path. The rail to trail. And maybe we could think about to the University. And the University needs to think about bike racks. So, any way, that's great. I do work with parents and students. Most of my parents are baby boomers. They do have money. My students don't want to live in multiple room bedrooms. I have a transfer student coming in this year. She flat out said I won't come if I have to live with somebody else in the same room. Now that's not to say the same apartment, but the same room. So you've got something there. These students want their own room. They've grown up with that. Another question I had, the

courtyard, is that functional or just aesthetic? Is that a place you could actually go out and enjoy?

**Kane Core Rep:** The first third of it is directly at the same level as the lobby.

**McDonald:** Right.

**Kane Core Rep:** And it is hardscaped and you could go out. There are doors we have on to it.

**McDonald:** Nice idea. Great. Thanks.

**Iannone:** One minute.

McDonald: ok. I think you all have answered my questions in your presentation and other than the concern about parking for the retail. But that's normal for downtown. If people think about it, we walk as far in a mall. That's the part that I don't understand. So I don't have problem walking downtown. Thank you and good luck.

**Iannone:** Thank you.

**Jim Petito:** My name is, excuse me, Jim Petito. I'm from Morgantown, Box 561, Morgantown. I've grown up in Morgantown. South Park. I've been involved with a family business within the City limits of Morgantown for the last 37 years. Also, I might add, I'm in trouble tonight because my son's landlord is in this room. But, besides that. No. I'm here to speak in favor of the project. And I'd just like to say that we have offered the off site parking in the Westover area. And, you know, I guess I do have somewhat of a vested interest in the project. But at the same time I would like to speak to you this evening as a parent of a University student. And, excuse me, one year ago my son graduated from high school and was accepted at several large institutions, in engineering. So we packed up and visited several big campuses last summer. One being North Carolina State, in Raleigh. The other being a university north of here with the name of panthers. And it's Pittsburgh. But, you'll do anything for your kids. (laughter) But, regardless you know the one thing as a parent that you, you really take notice of when you're from out of state or out of town, and that is accommodations. That's the one thing that you worry about. Where your child is living. Where he is staying. Where they are sleeping. And I believe this project. We saw the same types of projects in Raleigh. And, and, you know, in the Oakland district of Pittsburgh, which isn't the best in town, in the city. And the fringe of Pitt University there was some very nice housing options. And all I'm saying is that this type of housing may not be to the liking of everyone, but it presents such a great option to students coming in from out of town, whether it be out of state or out of the town. For these reasons, I firmly support the project.

**Iannone:** Thank you.

**Pat Martin:** I don't know if there is an order or not. My name is Pat Martin. I live 75 Wharf Street. I guess I would be a close neighbor to this new project if it gets off the ground and gets developed. I think the pros outweigh the cons. I highly recommend it.

**Iannone:** Short. Sweet. Thank you.

**Cy Logar:** My name is Cy Logar, I am with the College of Business and Economics at West Virginia University. One of the issues I would like to address is the demand side. Positive and negatives on any project that you undertake. But one of the concerns that I, that I face is that of the students that we have. When I'm talking students, it's not only the traditional but the non-traditional also. We are expecting a growth just in our unit alone of, over the next few years, 350 students. And they are looking for housing that is in proximity. And being in a business school, one of the key issues is location, the second issue is location, and the third issue is location. Not only from the university's perspective but from the business community's perspective as well. What I ask is, I've listened to students, but we deal with many nontraditional students. Will there be facilities, or are these facilities going to be made available for those. Such as international students that are at the executive level coming here for a year to have classes that are seeking lodging facilities. We have a problem with that at this stage. In addition to that, we find that we have faculty, where there are new faculty coming to the University. There are an average 20-25 new faculty due to retirements that come to the University and many of them are not interested in purchasing housing immediately but are looking for lodging and looking for lodging in fairly close proximity to the campus. In addition to this we have an executive in residents program. And our executives ask us; they're going to be here for a short period of time from one year. Are there facilities in this area that are close that I can get to the office rather than having to find a place that is a distance away? And we may discuss parking as a problem, but those who live outside of the area and have to come in have a difficult time finding parking to get to the office. So if we have something available where the parking is accommodated then, then we have a location that becomes very attractive to those individuals. And of course there are those 350 new students, and our students are juniors and seniors. These are students that are not living in the dormitories. These are students that are looking for housing in the area. Their courses are taken on the downtown campus and being in close proximity to the campus is extremely important to them. Thank you.

**Iannone:** Thank you.

**Jason Gross:** Hi my name is Jason Gross. I'm the student body president at West Virginia University. I want to speak in support of the project. This is my uncle Jim setting here and my former uncle Bernie Bossio here. (laughter) I want to speak in favor of the project because I do think. I think I can speak for the students. I think I have my ear to the ground on what, what, what the student body is thinking. And I think that the first thing that students look for in an apartment is location. And location, location, location. And I think with this close proximity to campus. That students will buy into walking. I think that there is going to have to be a change of culture. I don't think it will happen overnight, but I think students will use mass transit. They will use a

block away from the PRT. And I also think that this apartment, this project has all the amenities that students want. Right now I feel that students are faced with whether they want to live far away from campus and have a place to work out and have the amenities that are offered or they are going to have to live in sub par housing in the Sunnyside area and be able to walk to campus. I think this provides both of those, and I want to be able to use my title as student body president and speak for the students in support of this project. So, thanks.

**Iannone:** We're very glad you came this evening. Thank you.

**Mark Wise:** Hello, I'm Mark Wise, I'm the Director of the Board of Park Recreation Commissioners in Morgantown. And as the Director and responsible for the upkeep and maintenance and development of the trail system and the Hazel Ruby McQuain Park and the Amphitheater. We see these kind of developments very important to the continuation of services we provide down there. I think it's one thing. You may not think about on a daily basis, but a lot of the activities we provide in that area are sponsorship type activities. Numbers mean an awful lot to us. We've seen what the development that's already occurred down there. A big increase in our activities. And with these kinds of things the numbers grow. Our participation grows. Our sponsorships become more interested in the things we do. We increase services as well to the area. As we look at the future Wharf District type recreational activities down there to have these kinds of developments there is very important to continuation and improvement. We hope to have sponsorship activities there on a weekly basis. We average about one a week now. We would like to see that grow to two, three, four nights a week on the Riverfront area. So, we think these types of developments will certainly have a positive, a positive effect on what we try to provide. All right, thank you.

**Tom Anderson:** My name is Tom Anderson and I'm at 32 Tibbs Road in Morgantown. I'm a partner in DCL properties and we're owners of the Brock, Reed, and Wade building located at the corner of Pleasant and High Streets. We believe. We will be developing 21,000 square foot, three story building into a 13unit apartment facility with commercial and retail space on the street level. This is a tax credit project, which is currently in the design phase with construction to begin in the fall of 06. As developers we expect the Riverside Center on Chestnut to have a positive that with the addition new 1000 bed facility, there will be more interest and more student activity in the south end of High Street. We believe that as the occupancy at the Riverside project nears capacity there will be more demand for more student housing in areas immediately adjacent to the Riverside Center. This demand for more housing created by the Riverside project will help keep the Brock, Reed, and Wade site successful. And create more housing opportunities for developers and property owners in the downtown area. In addition to our own project being successful, there will be an overall increase in student activity in the area. As a result, there will be a tremendous economic impact made on all businesses in down town Morgantown. And not just those in immediate adjacent to this new facility. Restaurants, coffee shops, theaters, clothing shops and other retail outlets will all benefit from the increase in foot traffic along High Street. Such an increase in activity will have positive impact on the economic health of downtown Morgantown. As a down town property owner, we are very supportive of this

project and think that it is success will be a benefit, not only for our own housing project, but will benefit all of down town Morgantown. We recommend that the BZA approve this. Thank you.

**Iannone:** Thank you.

**David Kelly:** My name is David Kelly. I am a member of local property owner's association. My address is 235A Jones Avenue. I am also a developer and owner of property in the Sunnyside Area known as the Sunnyside Commons. It's about a five-acre piece of property. This is a great project. Of course what I don't understand is, is the parking. I don't understand why there is no parking on site. You know, the three floors of that should have been parking. I can tell you that from my experience in 25 years with students is that I get calls from students at night because there's not a parking space in front of the building, and they had to park in back. So you talk about parking two miles away. It doesn't work. I'm at Third Street, three blocks away from the Business and Economic building and they want to drive to campus and park. And they pay 40% less rent at my place and they still, they want their cars there. You know, this project should have had on site parking. If I redevelop the Sunnyside Commons, I'm going to come to you all and I want my parking more than three hundred feet. If I can find anything more than 300 feet, I want you to approve it. You know, so, you got to, you got to with all the developers fairly. You want Sunnyside Up redeveloped; those people are going to want to have the City allocate some of their parking to them. So, we hope you can do that. So, you know, to the developers of Sunnyside Up, you know, they may get the same tax advantages and the little bedroom, with the University. But, you know, I can tell you; these kids are going to have cars. I register my cars every year. It's 95% half cars. And when they move in, they bring trailers. And they bring furniture. And this move in isn't going to work that I've ever experienced. For one thing, those streets are tight. And they come, they come in, in, in bring all kinds of stuff. So, I don't know. Maybe they can work out the move in, that's not my problem. But, and I can tell you that I do know a lot of other business owners. And yeah, those people that cater to the students, they're going to love this project. Those people who don't cater to the students, like the ones I know, are moving out because they don't want to even bring their kids downtown because of the language and the stuff they have to encounter with the student population. So, it's a give and take. But I don't understand why there is no parking on site. You know and I think you have to consider that, I know in a B-4 zone you don't have to look at that issue. But, that's a big issue. And their paying big bucks. They want their cars there. They drive every where. They're not going to want to hop in a shuttle and go clear across the tracks in Westover and get their car. So, I don't know, that's that's a big concern. You know, it's it's not owner managed. You don't know who the management of the thing is going to go. And I think it's going to have some negative effect also on downtown. I mean, we know what down town at night is right now. And of course we could say that they are going to get there anyway and carry on the way they do. But, I think there will be more issues than what has been brought up. I know this is a great project, but you know, the first three or four floors should have been parking. Thank you.

**Iannone:** Thank you.

**Sam Bossio:** Sam Bossio, president of North Central West Virginia Property Association. I'm here to vote, vote against it. Or our feeling against it. You notice that everybody who was in favor of it up to this point had an economic interest in it. Your 1000 people or, how many of them are going to have boyfriends and girlfriends? It's going to be about 70%, so actually that 1000 is going to be about 1700. What doubt guest coming in? Guests, parents, and visitors to the area. Where are they going to park? Just something I think you need to consider. Again, like Dave Kelly said, I think there are a lot of issues that need to be considered. This may need to be tabled, so more input can be put into this thing. You know, I think that this thing, this thing has moved a lot faster than a lot of people were aware of. And more input needs to be put into it. Thank you.

**Iannone:** Thank you.

**Jim Prete:** Good evening, my name is Jim Prete. I live out at 1136 Munsy Street. I'm also a developer of sorts in Morgantown for 53 years. Probably built the largest complex building in, singly owned in the State of West Virginia. 165,000 square feet. All the comments made about made about this project have some validity. I probably am the only developer in this town that stood up right here and spoke in favor of Falling Run Square. And I also said that's the project that I would put my money on. It made sense. It was in the right location. It had the right environment. It had the right amenities. And it had, above all a, a positive impact the area it was going to be built on. Now, I'm not against any project that is viable, productive, progressive, and good for the economy of Morgantown. Because, very frankly, you know all these new projects allow me to raise my rents when necessary because of the price differential. But that's not the main reason. I, I want to see things progress. Talking about the parking, that's a very, very, very, very, serious issue here. I was watching a cowboy movie the other night and this one cowboy said to the other, take my horse over there and water him. Well, the damn horse didn't want to go. So the horse didn't get watered. You can park those cars over there three miles, but if you think you're going to make them go over there and get those cars, you have another thing coming. I don't think so. I have 250 apartments, about 700 tenants. John Batlas and myself built the first two apartment buildings in this town in 1956. Don't, don't try to fool people. Be rational. They're not going to park over there, you can bet your bottom dollar on that. And you know, green space, open space. You know, I had a problem and I had, I have 61 units in one acre and my tenants were unhappy because they didn't have enough parking. They thought that when their parents came, and their friends came. And let me tell you what I did. I paid \$75,000 for a house next door and provide 32 more parking spaces. It was economics. Now, I think you people that are going to build this building can solve everyone of your problems that you have. And the problems can be solved with money. If you are going to charge \$700 for a person in a three-bedroom unit, you might have to charge them 750 or 800. But, I tell you one thing, it's incumbent upon this Board of Zoning Appeals to see that equity prevails here in the use of the Morgantown Zoning Ordinance. Now, you know, I stood up here another time when they were going to build a parking garage with my B & O tax dollar. They didn't do it. They sold bonds. I rest assure you, cause I made a commitment that I would have went to the Supreme Court to assure that my tax dollar wasn't going to be used as a public garage. And it wasn't.

And I assure you again that there will be no public disadvantage used in the construction of this building that will disadvantage me as a developer and property owner because I've been to the Supreme Court three times and Circuit Court thirteen times on these issues. And, if you can build this project, meet the requirements, buy more land, and provide adequate parking and other amenities that are necessary, I'll beat my drum for you all day long. I have never opposed a competitor in my life. Cause I think I'm better than most of my competitors. That's why I've prevailed for 53 years. So I'm just putting the BZA on notice, and the City on notice, and you on notice, that I will be here and whatever it takes to protect my rights and my property rights I will be here. And I'm, I'm a friend of the court. They've seen me so many times they know me by name. So, the the the decision is yours. The decision is yours. If you, if you, if you think you can revamp this meet the requirements, I'm I'm with you 100%. But, if you can't, I'm sorry I would have to oppose this or any other project that would infringe on my rights and I certainly don't think the BZA would want to discriminate or be capricious in this act to allow one property owner to have benefits that are not readily available to others.

**Iannone:** Thank you Mr. Prete.

**Prete:** Now, wait just a minute sir. I'm not through and I don't intend to sit down just because you pointed your finger at me. Listen, wait a minute. Hold on a minute. I'm up here like a gentleman. I'm not speaking any longer than anyone else and this is a public hearing, sir. I was here one time two o'clock in the morning on a public hearing. So, I resent your action. If, you know, your trying to distract me, you're not going to do that. I'm just about ready to conclude and I would have been.

**Iannone:** I understand that.

**Prete:** And I think you were very much out of place. Thank you all very much.

**Fletcher:** If I could interject just to clarify. The chair did read a statement at the beginning of the meeting as he does at every meeting and said that speakers would be limited to five minutes.

**Iannone:** I also said, that I would be strict and I actually gave you more time. And yet you did speak longer than anybody else that spoke. Thank you very much.

**Prete:** (not speaking into microphone) I'm pretty good at it. Thank you very much.

**Michael Castle:** My name is Michael Castle, and I'm the developer at The View At The Park at 1117 University Avenue. And I am a very big proponent of development in down town areas. I am a very big proponent of tall buildings. I am a very big proponent of shared parking ordinances and lessening the parking criteria so we can have density in our down towns. I also think that putting people in the down town area is going to be good for business. But, my question is when is enough, enough? This site was formally zoned B-4 non-pedestrian which meant is was required to provide parking. Now, that has been changed. So, by right you can build 120 feet, which by my estimates would probably, according to this scale, put about 600 students there. Who

will still shop down town create business opportunities? Certainly spend their money and provide for student housing here. What can you accomplish with 1000 students that you can't accomplish with 600? I, I seriously question that. And they can do that by right. I think that the parking issue is a very big issue. I think that putting 1000 kids anywhere is going to be cause for alarm. Does any one here know how many student actually live on Grant Street? Is it 1000? I mean putting that many kids there in such a short space I think is going to create issues, problems. I agree that there are going to be visitors, boyfriends, girlfriends, this, that, and the other thing. And I see it as a potential conflict. I'm asking that the Board of Zoning Appeals deny the conditional use. They can always come back with a building that meets the criteria and gives them the density that should be able to make this project work. Thank you very much.

**Iannone:** Thank you.

**Don Corwin:** My name is Don Corwin, owner of Corwin Properties. I've probably been in business just as long as Jim has. I think he beat me by a couple months. I own approximately over 100 apartments my son and I. We've been in business for 45 years. We have a very good relationship with our tenants. How many of you gentleman here, you say you've been in business, what? 15, 20 years? How many of you gentleman have had parties with your tenants? You have? While you was a student?

**Kane Core Rep:** (not speaking into microphone) I built student housing all over the country.

**Corwin:** I didn't ask you that. I didn't ask you that sir. I didn't ask you that. (speaking from audience member or Kane Core Representative) I didn't ask you that. How many times, how many times have you been asked by the parents of the students to come to a party?

**Kane Core Rep:** Zero.

**Corwin:** That's all I wanted an answer. Thank you, we have. Anyhow, make a long story short. You're granting a variance, which this board alone turned down about three or four years ago. We were going to buy a piece of property on Beechurst Avenue, spend over a half a million dollars for this piece of property and due to the fact that we only had, we had seven parking spaces. Ok. We needed 11. They turned us down. Now here comes this project, I think it's an excellent project. Beautiful project. It's a nice building in the wrong place. You know we have much better property around here if you could lower your, your spending on the building and put some into the property. There is plenty of property around here that you could buy for the right price. I do, personally, myself, if you're gonna make, approve this project, ok, and you've got to make it fit in the box. We said you've got to have, what is it? One parking space for one bedroom, parking space for one and a half bedrooms, is it? One and a half parking spaces for two bedrooms. That's what it is. So, this is a very good project. It's just in the wrong place at the wrong time. And by the way folks, if you want a good piece of land, I have 33 acres right across the river. And for all these people at the University, wanted to get on their bikes and ride. That's an ideal spot. They could ride down over



the hill and. Putting a 1000 students, like I've said I've been in business for 45 years. You're talking at least 750 bikes. Can you imagine taking 750 bikes up the freight elevator or in an elevator. You know, but anyhow, that's that's my point. If you're going to pass this thing, then keep open when we come back. We own property in Sunnyside and like the president of the student body president said. There's a lot of bad apartments. And there is. There's some. There's also good landlords. There's a lot of houses out there that are empty right now. That are nice apartments and the the only reason is because there is an abundance of parking spaces. I know the University is going to expand and that's great. That's great for all of us. And you fellows have done a good job. Buts it's in the wrong place, and at the wrong time. So please, consider if you are going to approve this thing make them have the parking space just like you would make us. Because the building we were going to put in wasn't tax-free. Something we were going to spend our own money. It wasn't the University backing us. We were gonna spend our own money and I appreciate your time you hearing me speak. Thank you very much.

**Iannone:** Thank you.

**Dan Nagowski:** My name is Dan Nagowski, 1125 Unviversity Avenue. I'm also the owner of Wings Ole, Wings and Things Incorporated, excuse me. I've been in business here for 29 years and I like Pat Martin think that the pros of this project out weigh the cons. And I am for this project. I've been here before you folks before, fighting for this business district. The Wharf Street, or the Wharf business area. Trying to keep it as a viable business district. And I think that this project fits well within. So I'm here. I talked with Mark, I've talked with Tom, I've talked with a lot of folks in the community about this project. And I'm for it. Thank you.

**Iannone:** Thank you.

**George Marshall:** Good evening, George Marshall and I'm with Jim Petito. So, we do, our interested in the parking of course on our property. Primarily I did want to clarify the point from the standpoint that it's a five-minute drive over there. It's not two miles; it's not three miles. I see no real economic advantage of renting parking spaces off of us from these people from Kane Core versus somebody putting there own parking lot in. I mean I don't see that and I'm not a litigious type person. So I really don't know the ends and outs of that per say. I am speaking primarily from somebody that lives on the outskirts of town and I've seen the expansion out of town to the standpoint that we have a small country roads that are developed by ourselves. We pay for the up keep of the roads and right now because the development out past the Stewartstown Road area. Talking about the Shorty Anderson garage area. From there on out to 705 and beyond. Ok. We have racetracks. I can't let my grand kids go out and play in my front yard. All right. This would compartmentalize. Put the thing down town. Keep in down there. There's always some pros and cons to having that many people in a given space. There's no problem about that. But I am thoroughly in favor of the project. Thank you.

**Iannone:** Thank you, sir.

**Terri Cutright:** Hi, I'm Terri Cutright. I am the downtown professional. I work for Mainstreet Morgantown. I became involved with this project, probably about 16 months ago. And as I talked to my counter parts across the country, they used words such as wow, unbelievable, awesome, once in a Mainstreet Manager's life time. It didn't matter if it was a Mainstreet Manager from Wallawalla, Washington, Capitol Hill District in D.C., or Fairmont, West Virginia. They all knew what the scope of this project could do for downtown. Don Rentkama? Who is principal of Place Economics and a Mainstreet Economic restructuring guru stated at one time, people that live in a downtown spend seven times more than people who work in a down town. Not only will the residents in this building be that spending power, but also the people that visit them. Some of the people spoke as a negative. We think that very much as a positive. We want those people to come visit the residents in the apartment. Also, you heard several parents speak tonight. I'm a parent of a college student out of area. The average parent visits their student five to six times a year. I visit in Carlisle, Pennsylvania, probably ten to twelve times. Stay in the downtown, shop, spend money on clothing. So these will all be uses, users of our downtown. In our downtown, which is bordered by WVU main campus on the north side, the river, Decker's Creek. The only area for continued growth is for us to go vertical. And what a better area than University Avenue. An area with vacant lots and some buildings stock that could use some redevelopment. Our hope is that this project on University Avenue does what One Waterfront Place did for the Wharf District. It could be the beginning of a new renaissance. The new chapter for Morgantown. I have prepared my own power point presentation and hopefully the gentleman here will not be to embarrassed by it, but. This is a power point on a Mainstreet budget. The green area is the downtown. The downtown is under attack and not just from Godzilla on the streetscape. It is attacked from the power center up in Granville, University Towne Cen, University Town Center. Also the project on the south end of town which is under construction with the Super Walmart Center. And the last project that is also under construction out at 705. So, as you can see from this map the down town is very much in an, in an attack mode. So for that, we ask your support to be able to continue the growth of our downtown. One of the things that I have and I will leave with you. Our constituents a lot of times are small business people. They work all day long as single proprietors I have letters of support for this project that we couldn't drag everyone out tonight. Thank you.

**Iannone:** Thank you. Any one else?

**Charles McQuen:** Hi, my name is Charles McQuen. I have Tanner's Alley Leather at 416 High Street, which I've operated for 30 years. I'm also on the Board of Directors of Mainstreet Morgantown. I'm here to say I'm in very much in support of this project. I think it's going to have a significant positive impact in the downtown. You know, there's a lot of growth that's been happening in the down, in the greater Morgantown area. But, downtown has not benefit of most of that. But this project I think is going to have a greater impact than any other project that I can think of. We're going to have 1000 more people downtown that area going to be availing themselves of all the downtown businesses and services that we have to offer. And I think that more importantly, these people are going to be downtown on a regular basis. They are going to be part of our community. And they're going to be taking advantage of all we have to offer. And I

think we have to realize that these people are going to choose live in this environment. They are going to know what the situation is going in. They're going to know what the parking situation is going in. I think as a, as a personal note to address Jim's concerns on how far people are willing to walk, where they are going to get groceries. My daughter went to school and they had a very very strict parking situation it was, the college was in a residential area. And in fact, freshmen were forbidden to bring cars. What an idea, huh? It was ground for expulsion if you were caught. But in their junior and senior year they were able to live in an off campus environment in a situation very similar to what these gentleman are proposing. And there were many different units around that she could choose from. And the one that she chose was the farthest away because she like the environment. She walked eight blocks, which I think is probably farther than this is set up. She walked eight blocks to, every day to campus. Across a street that would be comparable to University Avenue, rather than deal with trying to find a parking space and that sort of thing. And the reason she chose that environment was because it wasn't like a campus environment. It was more like regular apartment unit; in fact it was a three-bedroom apartment unit almost exactly like what you all are proposing. And I think that she felt that this was more like the real world. Getting a little bit away from the dorm situation and she, she felt like this was a step toward the real world as she finished up her degree. So I think we have to be careful about trying to make decisions for other people. They are going to know exactly what they will get into when they get into this situation. Her car was fairly close to were she lived. But she would leave it parked for a week at a time, Monday through Friday and walk the eight blocks. Even in the wintertime in the snow, rather deal with the, the parking situation. And she did it voluntarily. She knew what she was getting into when she chose that location. And I think that we are dealing with a new type of student that we're just beginning to see. People are willing to put up with these things to live in a certain type of environment. So I think we really need to take that into consideration with this type of unit. Although we think that the parking situation is important, maybe it's not as important to them as think it is. So I think that, seldom does a downtown, the size of Morgantown, have the opportunity to have literally injected this type of economic impact in to our community. It's a compact well planned professionally managed unit that I think is going to have a significant positive impact, like I said in the Morgantown down town area. Down town is growing up, I think literally as well as figuratively. This is the city, this is the way cities work. And I think that we need to embrace this type of positive growth. This type of growth will have a positive effect in down town Morgantown. Thank you.

**Iannone:** Thank you.

**George Papandreas:** Kind of short so I move it. My name is George Papandreas, I live at 41 Euclid Avenue over in South Park. I'm a local property owner, commercial property owner. Pretty much everyone has touched on pretty much everything I wanted to say tonight. But I do want to commend these gentlemen for not only bringing this project to us, but also picking Morgantown for this project. Clearly, there are lots of opinions for what's good for Morgantown, what's bad for Morgantown. But I want to echo what Charlie just said because pretty much everything else has been said, that with the parking issue, and I should preference by saying I'm on the Parking Authority.

With the parking issue here, it almost sounds in some of the comments that have been made tonight, like the students that are going to be moving in to this facility potentially are being blind sighted by the fact that there's not parking on site. That there is not three or floors of parking. That they just can't pull up in front of the building and stop there. As Charlie said, they know that from the beginning. That's pretty easy to look at. This is going to be a big building. And for this group here tonight, I think that the issue was brought before them is the height of the building. Certainly I think it's responsible for them to look at all the issues. If parking is one of those, then parking should probably be looked at. But nobody is being blind sighted here. The other developers that have been here tonight spoke, and they spoke very responsible and I respect what they've all done by providing on site parking, or at least some on site parking. When tenants come to them and talk about the potential of renting a space from them, that's disclosed up front. Again, nobody is going to have anything hidden from them here. So, I think that it's important that be recognized. Because it's not actually been said. The other thing is, there have been some comments made earlier about, you know, what about boyfriends, girlfriends, what about family, what about people that come to visit. Typically that's not going to happen during the day time. Typically that's going to happen probably during different times on weekends or in the evenings. Speaking from a Parking Authority standpoint and questions you can field. If you want to, to Tom. We have a lot of parking in evening's downtown. There's more than enough parking downtown to be able to handle the influx of those people coming downtown. What we're missing downtown is some of the infrastructure to, to entertain those people, to support those people. And the reason I'm here to speak in favor tonight is because, I feel that having an influx of 1000 or so people in a concentrated area down town will help develop the need. The need is already there, but it's going to accentuate the need for those services to be brought into the downtown area. Now, again, I will disclose, I do own commercial property downtown. There was a comment made earlier about that a lot of the people that are here talking in favor this, are talking in favor because there is something to be gained. Well, I would submit that there is something to be gained by everybody by this project coming down town, because I believe that. You could also just as easily say that a lot of people that have come and talked against this project are talking against it because there is something to be lost by them. You know, maybe that's the case. I'm not even going to field that one, because I would like to think that this is going to either sink or swim on its own merits. One of the things that I'm hopeful about, I don't know if it would happen, but I'm really hopeful about this is, by putting high density living, especially for the student community in an area like this, whether it's this particular building or whether it's, you know, something across town, or potential in the next couple years, maybe a couple different things all over the place. My personal hope is that it would bring, it would bring the students together in those areas and kind of give some, some of the neighborhoods back to the neighborhoods. To keep. I live over in South Park. I live three blocks away from downtown Morgantown. I'd like to know that those houses in my neighborhood, ok, that those houses in my neighborhood are going to remain single family homes or starter homes for, you know, for young couples, or just married couples, or homes that will be in that 100 to 200,000 dollar range instead of six to eight people living in a bedroom, well, that's an exaggerate, but you know what I'm getting at. No many people over populating an area in an primarily residential area.

Again, I'm here to ask that you think favorably of this project. I think it's a good project and a strong one for Morgantown. Certainly I think that these gentlemen have done their homework. Again, thank you very much.

**Iannone:** Thank you. Is there anyone else. Would like to make some comments. For or against this project. Seeing no one else we'll go into closed session. Hey Bernie, why don't you start us off?

**Bossio:** O.K. You know, I think, number one, it's great that we've had such influx of individuals come in and talk about this project. And we've heard a lot of different ideas going around. And different comments. And I'm just trying to make some notes here on different things that I've heard. And I'm a little bit confused. I'm going to, I'm going to rely on Chris to answer some questions and maybe some other people on this Board that could help me. I guess the biggest issue is, for me, I think parking has been one of the biggest issues that we've talked about. And, according, let's see, January 3<sup>rd</sup> we passed the new zoning. Which said that the B-4 district no longer had to provide parking.

**Fletcher:** Actually, that standard was in place for most of downtown, prior to January 3<sup>rd</sup>. There was a B-4 pedestrian and a B-4 vehicular. And the B-4 vehicular area, I think was primarily focused along University towards the river.

**Bossio:** But, January 3<sup>rd</sup>.

**Fletcher:** Put it all together.

**Bossio:** Put it all together. And it's said that B-4 no longer has to have any parking. Is that correct?

**Fletcher:** Correct. Now, I can't speak intelligently as to whether this project was a B-4 Pedestrian or a B-4 Vehicular. I don't know. I wasn't here. So it may have been in B-4 Pedestrian or Vehicular.

**Bossio:** The way that this Board has to look at it now is that it's zoned B-4 Pedestrian.

**Fletcher:** Absolutely.

**Bossio:** It is not required to have parking.

**Iannone:** Right.

**Fletcher:** Absolutely.

**Bossio:** But it's one of the biggest concerns of everybody out here has talked about that has a concern. So, do we allow a loop hole in the B-4 when that was redone over the last several years like Jim talked about? Is there a problem with that?

**Fletcher:** Is there a problem with not requiring parking downtown? It has not been a problem to my knowledge up to this point. The question, I think is, is it a good policy or is it (interrupted my Iannone).

**Iannone:** Sorry, I think that the question is mute because the Board of Zoning Appeals is not here to dictate the ordinance. (more than one person speaking) We are here to administer the ordinance.

**Bossio:** Exactly. But, But. (more than one person speaking)

**Fletcher:** But the point I was trying to make.

**Bossio:** (more than one person speaking) accommodate everybody that's been here on the other side. You know since we've had all this input, and I think input is good. And I agree with you. You know when I came on, when Council appointed me, it was like, I want a level playing field out there for everybody. Because I've watched a lot of developers come in and have to do jump through ten, fifteen hoops on things that they shouldn't have to because it was there. It was in the books. Mr. Prete said something, he said as long as it meets all the requirements. Ok, I keep reading through here and you know the parking issue. It's not a requirement; I don't know how you're even supposed to look at it.

**Iannone:** Right.

**Bossio:** O.k. so I appreciate what everybody has come in here to say tonight, but I feel like my hands are tied in a lot of ways.

**Biafora:** Bernie, there is a height restriction, that's the only thing.

**Bossio:** But see David.

**Iannone:** Sorry, we're in closed session now. Thank you.

**Bossio:** Mr. Kelly said something in reference to his property up in Sunnyside. And I don't know. Is he zoned B-4 up there, because he said he wants to come back later on and, I don't see Dave. He's going to come back to us latter on and say this, this, this, or that. He's not in a B-4 District up there.

**Iannone:** Correct.

**Bossio:** Another thing as far as parking. I'm just trying to brainstorm here. You know, I think somebody brought up the word culture. May be it was my brother or Dave. Somebody said, somebody said something about the word culture. We're going through a culture change. I think the gas prices, things are happening and I think that we are going to be seeing a culture change. We have, and I'm not, I'm somewhat familiar with the District out on Van Voorhis Road. Now they're running buses. Or some type of transportation. People are leaving their cars there, and from talking to Mrs. Easily after getting this report to find out if that is something that works. She said, well

yeah. They back the buses. I mean that's a, every hour these people are getting on these buses and going down town on these buses versus driving their own cars. Now, there they had the land and they were able to provide the parking spaces. Dave Biafora said something about the box, fitting in the box. And again, I'm going back and reading down my thing. I'm not sure where this thing is setting outside the box.

**Biafora:** It's too tall. It doesn't fit in the box. It's too tall. That's what their asking for.

**Fletcher:** If I could. Bernie, if I could jump in. Just to clarify.

**Biafora:** They're asking for height.

**Fletcher:** Excuse me. This is a closed session. To clarify the previous ordinance had a height restriction downtown. January 3<sup>rd</sup> does not have a height restriction. The only thing that required this particular development to come to the Board of Zoning Appeals is that it exceeds ten stories. That is not a height restriction. All that does is make it a conditional use, which necessitates the evaluation of shadowing and the other things that were discussed before.

More than one person speaking.

**Iannone:** I think that still needs opening as Mr. Castle brought up as to the appropriateness of the project. When is enough, enough? Is this project suitable for this space here and now. Within the dimensions that it's planned. Or is it trying to do too much, too quickly. That's still a question to be asked.

**Bossio:** And I appreciate that. But one of the problems that I still have is that when I came on here, Council talked to me and we want a level playing field. And that's something that I heard from three of the developers out there tonight, is a level playing field.

**Iannone:** Of course. As it should be. Well, I think you are going to get a lot of people upset because. I just want to interject that we have had a change of ordinance.

**Bossio:** Exactly.

**Iannone:** And things change. And I think people are resistant to change. And people's whose issue were decided on under the old ordinance are now unhappy. But does that mean we can never change? We can never update our ordinance? We must remaind the same? Is that what kind of level playing field you're trying to describe?

**Bossio:** Not at all. We change with the new zoning came out. It's change. And we live with that within are parameters.

**Shaffer:** A question Bernie. And I'm not sure, Chris helped me out here. As sensitive as I am, parking, first of all I would like to. Everyone has a moniker, and I would like to mention the fact that I'm 20 pounds overweight and considered part of the obese class that we've been talking about here tonight and in need of walking. Outside of

congestion, are we even allowed to make a determination on parking in this, in this request?

**Fletcher:** It is my opinion that no.

**Bossio:** No.

**Iannone:** No.

**Shaffer:** There is nothing that I'm reading here. (more than one person speaking.)

**Rockis:** You finish up.

**Shaffer:** No, that's fine. I'm just asking. I'm asking the question. Are we even allowed to make a determination outside of congestion? I have some questions about congestion. But it simply says that it's not required for this district and in order for us to make determinations based upon their request for conditional use; do we even take that into consideration?

**Fletcher:** My opinion is no.

**Bossio:** I'd just like to finish the level playing field. And just say that, I don't want to set a precedent of not having a level playing field. And like I said before, when I've watched other developers come in here and done a lot of development, Jim, Dave, and they've jumped through all the hoops. Now we've talked about, Dave talked about the height requirement. So I read in my, my little book, that I didn't bring with me tonight, about the height requirement. Well, once they went above the ten stories, it kicked them into a certain requirement. So they give me these big thick reports answering all those questions the City ask for, or the BZA. Answered everything positive, but no one here presented anything differently to say, here's another report, let's put our money out there. We're going to have another report to show that in fact, there is light or air problems, there is problems with congestion, anything else. There was just these reports we got.

**Biafora:** That's why they table. But they are still asking for over ten stories. Can you address the question that they, their conditional use. Can you open it back up to ask that question? The parking they've got, they, they could legal do.

**Rockis:** I have some questions that might help you a little.

**Biafora:** Because they can legally build.

**Iannone:** Mr. Rockis.

More than one person speaking.

**Biafora:** O.K.



**Iannone:** Mr. Rockis

**Rockis:** Now, let's talk about a conditional use, so we all understand what a conditional use is. Would you, would you expound on what that means.

**Fletcher:** I didn't bring my ordinance. I would like to read from your ordinance for the record.

**Iannone:** Very good. Thank you Jim.

**Fletcher:** Thank you. Whose copy is this? Is it. I'm not seeing in here what I'm looking for. Ok, let me wing it. Could you ask the question again?

**Rockis:** Just, would you just give us, maybe a, a simple explanation on what a conditional use is?

**Fletcher:** You have under the land use table, you have by right permitted uses and you have conditional uses. Conditional use requires a site plan approval by the Board of Zoning Appeals. Conditional uses are generally understood as unique in its use and that certain things, additional things need to be considered. Particularly.

**Rockis:** That's the key now.

**Fletcher:** O.K.

**Rockis:** Repeat that.

**Fletcher:** Additional things need to be considered. So that's why you have eight findings of fact that have those impact statements.

**Rockis:** O.K. Now, let's talk a little bit about history. We're going to have a history lesson here. I've been on the Board of Zoning Appeals twenty some years now and what we used to do, we used to have a conditional use at any time there was, in the B-4 zoning district that you had any type of multi-family, you know, an apartment type structure. You used to have to come in. and before us and, you know, we would go through the findings of fact. and that was so that we would keep retail on one floor, and then you know, we didn't want, if things got tough in the downtown area in the, where apartments would be put on the first floor. So then we moved along and we, we came up with a new ordinance here where we, we still have a conditional use. But it's not for that same reason. Now, in a conditional use, the Board of Zoning Appeals can put any type of conditions they feel necessary on a project. Now, I, I, I, I'm going to, you know, I'm not going to be wishy washy where I stand, because all these guys came in and were complaining, I have held their feet to the fire on every project they done. You know, as far as parking lots. Because when you start during a project and you start. See, this is all engineering is all proportioned. And the parking (coughing in to microphone, not by speaker) portion of the land use at the expense in a project if you comply with the requirements that we have. And the requirements that we have are very reasonable in the developers favor. That's, cause I worked on those when we

were crafting them and I am not going to support this project unless you guys can come up with some kind of parking. I don't know what kind of arrangement that's going to be. But number one, you, you've come up with some, some off site parking. And it's bogus because we worked on this parking requirement for a long time and we talked about how far and where it should be and we came up with a compromise that was within three hundred feet. And that is very reasonable, and you guys have not met that. Now, you can meet these parking requirements, you can pinch a hole in the ground and put your parking in the basement. But, that can be done if you want to go through the, the, it's going to be a financial burden for you to do this. But everybody else has to comply with these parking requirements. And it's my opinion that in the conditional use, we can require, I know we can require you to do that because we've done that in the past. Many, many, many times. So.

**Fletcher:** If I could, if I could ask. Have you ever required parking downtown as a condition as an approval? I don't know, I (more than one person speaking).

**Rockis:** We have had very few cases in the downtown of the new construction. In fact, I can only remember one or two but those were for office space and mostly for, for the.

**Biafora:** Jimmy Rockis, my building you required parking.

**Rockis:** David, I'm not.

**Biafora:** I'm not trying to be a City Planner here.

**Rockis:** I know that, but

**Fletcher:** Just to clarify is that in the B-4 District?

**Biafora:** Yes it is.

**Kane Core Rep:** Mr. Chairman, is this a closed session or not. Because if the public is allowed to speak, I don't think it should be just one person. We have played by the rules. You explained that this was a closed session and we've kept our mouths shut. I don't think this is quiet right.

**Iannone:** O.K. Thank you.

**Rockis:** Makes a good point. But, anyway, we're going to have to decide here because this is the issue here having parking. And, so, I'm, I, that's where I stand on it, and you know, I'm only one guy. And, but still when I see you guys in Gene's I'm still not going to be embarrassed to set down with you and drink beer with you because I treat everybody the same.

**Shaffer:** Question Mr. Chairman, if the building does not exceed ten stories, then parking is not a requirement in this building. Is that right?

**Fletcher:** There is no parking that is required downtown period. Under the old ordinance the maximum height for a building like this was two hundred feet. I think what's being proposed is two-thirty.

**Iannone:** Right.

**Fletcher:** Correct. So under the old, if this were last year or something, we would be talking about thirty feet. But still not talking about parking. Now as far as Mr. Rockis', suggestion about placing a condition for parking, it's still my opinion that it's outside the policy authority of the BZA. And I think it's challengeable in court. If it's the policy issue that is the concern, then that goes to City Council. This is not a legislative body. This is a quasi-judicial body.

**Rockis:** But, sir, you, we can impose conditions. In one of the findings of fact that we are going to have to address is that the congestions in the streets is not increased. Congestion in the streets is going to be increased because, I mean, we, we, I deal with this on a weekly basis. So folks not having parking and it causes problems. And that's the way it is.

**Fletcher:** Personally I think it's somewhat of an apples and oranges comparison. This is a lifestyle difference as opposed to many of the projects that, projects that we're talking in Sunnyside or outside the area.

**Iannone:** I think this goes back to what Bernie was mentioned before, Jim, that things do change and I think our relationship with the automobile is changing and needs to change. Now, how do we do that? Or do we just do nothing and hope that it takes care of itself?

**Rockis:** Well, you are going to.(more than one person speaking)

**Iannone:** The ordinance was written that says parking is not required. Now, I agree with you. Technically we can impose additional restrictions, not limited in anyway. Just additional restrictions, of course that can include parking. And if that's the Board's pleasure that would be the Board's pleasure.

**Rockis:** Well, that's where I stand and so the rest of you have to decide what you want to do.

**Iannone:** Well noted.

**Bossio:** Jim, let me ask you a question, because I have not been on the Board that long. I'm the newby. So when you're saying that everyone else's feet, and, and I've been one of those developers that have been held to that requirement on the parking. What change did January 3<sup>rd</sup> make? When the new zoning went in.

**Rockis:** You've must also realize that we can not be difficult with this parking that there are buildings down town that are going to be redeveloped and use. But most of those are going to be small, like six, eight, ten for apartments, ok. The City, the parking that

we have can handle those. Now, if you're going to put parking requirements on those buildings that are down there, you know, the, who want, you know, depending on the bedroom mix that the parking requirement that we have in our ordinance. It's going to be impossible for those guys to conform and make their property so they can rent it and keep it on the tax rolls, and so forth and so on. Office space is impossible to rent downtown. So you know we have to, we have to keep the downtown area, the, we have to have something in our ordinance that allows for some redevelopment down there. This is entirely out of the scope of that. And the other thing, these guys can come up with parking if you would make them.

**Iannone:** Well, what would you consider to be appropriate? Obviously you're saying the size of the project, in your view, is not problematic. Is that what I'm hearing?

**Rockis:** Correct. I mean the size, that's not the problem.

**Iannone:** Well, what would you suggest would be appropriate in terms, in your mind, of what these folks need to provide for parking?

**Rockis:** Well, first of all, you, you, their allowed what, up to ten stories without even coming in here for a conditional use? I don't think anybody is going to complain about, you know, about not having those first ten stories of no parking, although I think you need some, I would negotiate on that, that, I mean we could probably give that away. But, when you go the other ten stories, then that creates the problem. And I think that's very reasonable expect that. Because we do that for anybody else.

**Fletcher:** If I could interject, again, Mr. Rockis points that you bring up, personally are very valid. From a planning standpoint, a land use standpoint, I am concerned about the availability of parking. Not just for this project, put projects like this, that will surely occur. The question is, who has the responsibility to make that policy decision. And that's a legislative decision, and that policy should be evaluated by the legislative arm, and that's City Council.

**Rockis:** I think that you're absolutely wrong. Because we've done it many times in the past for various things on a conditional use. Because this fits right into the finding of fact where in congestion in the street is not increased or isn't increased. Absolutely it is. And we've always looked at that as far as parking requirements.

**Iannone:** And you think that the congestion in the streets will be created by folks who will bring their cars into town and park them anywhere they can.

**Rockis:** Absolutely.

**Iannone:** Because this is just human nature.

**Rockis:** Absolutely, Absolutely. We have had that problem for many many years. We're finally digging ourselves out of that problem, because, why do you think they made the, what the, blue, blue lines over in South Park. It.

**Iannone:** Don't you think there are other things that are also changing with in the City that work hand and glove with this situation which is the growth of public transportation and the allocation of other means of transportation, other than an automobile.

**Rockis:** Well, but, those folks who live in this are going to have money and they are going to have a car. And you know that as well as I do. And two, what are you going to do with these? Are you going to put them over there over two miles away? It doesn't work.

**Shaffer:** Jim, if we require them to have parking there, it just seems to me that we are going to have people turning into the property more and more and more to park.

**Iannone:** That would, in fact, become a problem.

More than one person speaking.

**Shaffer:** And even more congestion. I understand your point, but it just seems to me, if, if I've got think for twenty minutes to go get my car to go some where. Where I can jump on a bus for pay for free, which I didn't understand that students could do for free, I assumed they had to pay.

**Iannone:** And isn't the difference, one is legitimate congestion which we have no say so because we sanctioned it.

Iannone and Shaffer speaking at the same time.

**Iannone:** As opposed to illegitimate congestion which we actually have methods to deal with. Do you see my point?

**Rockis:** Yes. I disagree with you.

**Iannone:** I understand that. We have that basic philosophical difference on this issue. Mark, you're being very quite.

**Furfari:** I'm thinking. I'm not day dreaming.

**Iannone:** O.k. Good. Just checking.

**Bossio:** (coughing in the microphone, unintelligible) ask Jim a question. I keep referring back to Jim because he's had the experience. Ten. You said that, that if we went to ten stories.

**Rockis:** That's to have that by right.

**Bossio:** O.K.

**Rockis:** They just happen to be in the B-4 zoning district.

**Bossio:** O.K. So, what will we do with those people then?

**Rockis:** That, that's a, that's a, that's just a given. I mean you are going to compound the problem more by doubling the size.

**Bossio:** You said that with the 201 units there just given that without adding. We could accept that parking condition?

**Rockis:** That's, you know, that is something that we're going to have to talk about here.

More than one person speaking.

**Iannone:** Let me ask this question right up front. How can we. How many of the Board want to consider the parking to be a problem and think that this is something that we should be discussing right now as an issue for this conditional use?

**Bossio:** There's a lot of other issues to discuss besides parking.

**Iannone:** Let's get this one off the table, because this one is obviously a hot button issue. Either we're going to accept it as an issue for this conditional use, or we're not.

**Furfari:** This legislation was approved in January that says we can handle parking in a B-4. We've got the parking garage, we've got the metered. We can handle it is what this legislation is saying. And it says anything over ten stories. Air, light, and traffic, not parking. That's what this says. And we start circumventing that it could have ramifications in focusing on parking. And that it, this ordinance says we can't look at parking. That's what it says. Period.

**Shaffer:** I agree with Mark. I think there are other issues with congestion as well. I don't see, I respectfully disagree with you on this one. I, I just, I don't see how we can, if the developers decided to say, no, we're going to go ten stories then parking is not an issue. There is nothing we can say anything about. So, if they decided to buy the lot next to it and have two ten story buildings, we still can't say anything about it.

Interjection by Dave Biafora.

**Iannone:** I'm sorry, but this is closed session. I'm going to have to remind you and urge you, please.

**Shaffer:** And it would be the same amount of people. And it would be the same amount of people in relatively the same area. I guess that's what I'm struggling with. And I'm also struggling with the fact that that there is a mind set change, that if I. it's one thing for me to jump up to my drive way and drive to the Dairy Mart on a spur of the moment and grab a gallon of milk. If my car was parked three miles away, or whatever, I have to start planning my trips a little bit better. And being a little. I'm not; I'm not sure about all this walking stuff. But.

**Furfari:** But that doesn't attract with the urban student.

**Shaffer:** Right.

**Furfari:** WVU attracts suburban and rural.

**Shaffer:** Right.

**Furfari:** You know, kids from New York City aren't coming to Morgantown, West Virginia.

**Shaffer:** That's right.

**Furfari:** They're going to Philadelphia or Atlanta, or major metropolitan markets. Those are the people, you know, know how to live in those kinds of environments. Rely on mass transportation, own a car but it's typically parked most of the week.

**Shaffer:** Right.

**Furfari:** We don't have those students. We have students that drive their cars.

**Shaffer:** I agree.

**Iannone:** Sounds like you're taking both sides of the fence here now.

**Furfari:** I am adding to the decision.

**Bossio:** So, is it a culture change when the District came in and are busing people? Is that part of that culture change?

**Furfari:** Are they busing?

**Bossio:** Yes. I particularly called Mrs. Easley about that project when I knew this was coming because of the parking situation.

**Furfari:** I don't. Are those buses filled with the District coming into town or are they driving their cars?

**Bossio:** According to Mrs. Easley.

**Furfari:** According to Mrs. Easley.

**Fletcher:** I don't know if that particular line is filled. But I ride the bus coming in the morning, it goes around that thing and we're filled coming out of North Hills every morning. When school's in.

**Iannone:** That's the message we had.

**Bossio:** They have their cars there. They have parking spaces. But they are still riding the bus to come in because they don't want to deal with parking downtown.

**Iannone:** Right. That's what I'm saying. That things are changing. Things are changing. And the realities and the experiences that have are valid. But things change.

And do you want to augment that change, accelerate that change or do you want to ignore that change? That's my point.

**Rockis:** Then I would like you to extrapolate then what you're saying then is that anywhere that is in close proximity to say campus, whatever, you don't need parking. Because that's what the guys in Sunnyside want. But now, now, you mean, that's not saying...

**Iannone:** I'm not here to dictate ordinance, but that is basically why I believe the ordinance was written to provide for no parking in a B-4 area.

**Shaffer:** The intent is to promote a pedestrian friendly environment that acknowledges a development pattern established prior to the influence of.

**Iannone:** (Shaffer and Iannone speaking at same time) I mean one of the other objectives was to promote residency downtown. Bring people, not cars. People. And I know that heresy. But I think things are changing. But if you provide, if you pro, if you provide it they will come.

**Rockis:** I, I think, I, apparently I with odds against the rest of you and I'm not going to change. We can argue.

**Iannone:** That's alright. We can disagree. We can disagree.

**Rockis:** That's good. There's nothing wrong with that. We having good discussion on that. But, I'm not going to change my mind. You all are going to, if you want to do this, you do it without me. Which is fine.

**Iannone:** Absolutely.

**Boosio:** it's not that I want to feel at odds because I understand what you're saying. You know, the parking.

**Iannone:** Absolutely.

**Bossio:** Because I've had my feet held to those same standards. I wish somebody could set here and say to me, when I read that book, and say you can require them to have parking. And under what I've read, and what the City Planner is telling me. I'm going to ask you one more time, can I look at parking?

**Fletcher:** My opinion is no.

**Iannone:** It's my opinion that Jim is right. That as a conditional use we can consider any additional criteria for approval.

**Fletcher:** Within the framework of the ordinance and the intent. If the intent clearly says that no parking is required downtown, I think you cross a step by requiring parking



downtown. Because the building, because the building is too tall or meets a certain threshold. I think now you've stepped into where you're legislating.

**Shaffer:** What we're trying to decide in my mind is what the intent is, and the intent says very specifically promote a pedestrian friendly environment. And if you don't have a car and it's three miles away, you have to make a decision if you're going to be a pedestrian, or you're going to walk to your car, or you're going to do something else, but plan to use the automobile.

**Iannone:** Right.

**Shaffer:** And in my mind. I have some other questions on the congestion, but , but, to my way of thinking, and I'm not entirely satisfied with the part, but, but, I don't see how we can do that and still stay within the intent of what the B-4 was designed for.

**Rockis:** I'm going to say one more thing. These, you know, are these requirements we have. They don't just drop out of the sky. You know, we have folks that come in here, and you know, they want to beat the system a little bit, get a little, may be make a little bigger, decrease the parking size, whatever. And this stuff is not here to, these requirements are not here to hinder you, they are here to help you because they work. It took me a long time to figure that out. (Coughing into the microphone) they just don't fall out of the sky. They, we just don't, don't, pick and choose numbers. We have these here because this stuff works. And we're going to have problems with this if you don't require some off, some type of parking that is reasonable and.

**Iannone:** There, I think you're crossing the line and your stepping into what Jim was speaking of is now you're legislating

**Rockis:** I'm not.

**Iannone:** Now you're legislating. You've decided, you've decided that although the ordinance is here for everyone and the greater good that this ordinance is wrong and you need to intercede.

**Rockis:** You're absolutely wrong. We are here to protect the health, safety, and welfare of the citizens of Morgantown.

**Iannone:** That's right.

**Rockis:** And it is my opinion that this does not protect the health, safety, and welfare of the citizens of Morgantown, without requiring these folks to have some extra.

**Iannone:** Well, I know that. I know that's where you're coming from. Though we disagree, I know that's your intent.

**Rockis:** And you can add conditions to this, it's just what the rest of you want to do.

**Iannone:** Absolutely.

**Bossio:** Can we talk about the parking that they were going to put in there? The Wharf District, the two hundred space that Jim, or.

**Fletcher:** Tom.

**Bossio:** Or that Tom said that he was going to provide. How does that play in? You said that was bogus.

**Rockis:** It is. I mean, we, we, you know, you have to have some kind.

**Bossio:** Can they make something legitimate? Besides digging the ground?

**Rockis:** Well, yeah. They can, you could. Everyone else that develops, you know, in that area provides be their garage, or something like that. There is nothing that money, that it's a money issue. They could take care of this with money.

**Fletcher:** Who else has developed in this area that has provided parking? Besides across the street. And across the street was. (more than one person speaking) If I could finish my thought, please. Across the street was trying to tap a different market, and that is condominiums for sale. And I think that is an amenity you would want to provide. Different market, different situation. It's an apples and oranges comparison in my mind.

**Iannone:** Different ordinance.

**Fletcher:** Yes.

**Iannone:** It was a different ordinance. As I said what you're proposing is that we granted someone or held someone's feet to the fire under the old ordinance, and under the new ordinance, they're some how have been cheated.

**Rockis:** No. I didn't say cheated.

**Iannone:** Or have been treated unfairly.

**Rockis:** They're here for a conditional use. And with a conditional use, you can, you can make conditions so that the health, safety, and welfare of residents.

**Iannone:** I agree with you on that point, I do. I would allow. If you want to consider. If the Board wants to consider, I think we, we, we get into a situation where we are in a grey area and exceeding our prevue. But I will allow it if that's what the board feels is appropriate.

**Shaffer:** If the, if the, if the demand.

More than one person speaking.

**Bossio:** So they tell me we can or we can't.

**Fletcher:** I think.

**Shaffer:** If the demand for park, if the demand for parking, if the demand for parking beside this unit is that gray there is certainly nothing for prevent a developer to erect their own parking garage. And make a buck on this thing.

**Iannone:** The other thing Jim is really that parking garage, the Wharf District Parking Garage, I don't know. But it's within a wisk of being three hundred feet of this project.

**Rockis:** I ask the question and no body gave me the answer.

**Bossio:** Can we ask please? Can they give us an exact, I mean.

**Iannone:** I'll allow it.

Coughing into the microphone.

**Iannone:** They've been very good and put up with other shouts out of the audience. So, I'll allow it.

**Bossio:** Can somebody tell me how many feet you are away?

**Iannone:** I don't think they really know.

**Kane Core Rep:** We don't know. At this point we don't.

**Bossio:** Mike.

**Michael Castle:** By foot. The City Parking Garage?

**Bossio:** Yes.

**Castle:** You're a quarter mile. You go out the garage, up the trail.

**Bossio:** How many feet is that?

**Castle:** A quarter mile?

**Bossio:** Yes.

**Castle:** 5280, so you're.

**Shaffer:** 1500.

**Castle:** 1300 feet.

**Iannone:** Well, is the distance calculated by travel route or as the crow flies?

Speaking, not in the microphone.

**Castle:** It's calculated by pedestrian route.

**Iannone:** We could be here to dooms day. I, I, I.

**Kane Core Rep:** Pedestrian route is not a requirement of the City.

**Iannone:** Could we, could we have a short recess? We've been here four hours, nearly. Need a break.

**Bossio:** What are we going to do with all these other people? Because I don't see this happening any time soon if we continue on. And these poor people are seating out here in the audience waiting to get their.

**Iannone:** I told you to bring breakfast.

**Fletcher:** So are we taking a recess then? What, five minutes? Five minutes.

**Iannone:** Five minutes.

**Iannone:** I would like to bring this meeting of the Board of Zoning Appeals back to order. Considering this Kane Core issue and also the issue of the length of the meeting and all the other agenda items on it. I've had a request from persons who are on the agenda. Are we going to stay in order to hear all these issues tonight? It's been the policy of the Board, and it is a legal requirement that we post public for all these issues. And, you know, it is a due process issue that we hear these items this evening. I'm at a little loss here as to what relief we can give any of these folks about the time issue. It is just the nature of the beast I believe.

**Bossio:** I'm willing to throw this out as a consideration. That the Kane Core issue is tabled, only tabled though that this BZA can call a special session in agreement with them so as not to hold them up. And we can do this with the next day or two. I don't know if this is legal or not.

**Fletcher:** I don't know. I'm thinking fifteen day notices like we do everything else. I don't know if we can. Jim, have you carried over to the next day?

**Rockis:** No, we've never carried over to another, another meeting, unless we table something and then we had it in our next, you know, our next, our next regular session.

**Fletcher:** Or, or you could table it. Or you could table it and have the Chair call a special to see if someone pulls it off the table. But I'm thinking, and I would have to check with the City Solicitor, but I'm fairly confident that with a special meeting we need a good fifteen-day notice to let every, all the parties know that this special meeting is going to be called. And then hopefully someone will pull it off the table.

**Iannone:** Is that even a possibility with the applicant?

**Marino:** We certainly would like you to make a decision tonight but if we have to table this for fifteen days, we're willing to do what we need to do. I can't say that I'm going to

have team member back here. We have people from Boston, Dallas, Pittsburgh, D.C., so, Philadelphia. So, it's difficult.

**Bossio:** But what's been presented by all those individuals is in, of record. So.

**Marino:** There is nothing more for us to present.

**Bossio:** Basically.

**Kane Core Rep:** Do we have a chance to speak again in this? Do we have a rebuttal period? Because if that is the case I think all of us would like to be here for that. And that involves a lot of traveling, coordinating of schedules.

**Iannone:** We certainly, we certainly could offer you an opportunity for rebuttal this evening.

**Fletcher:** I did check my notes, and, I don't the developer was given an opportunity to address what was raised during the public hearing session.

**Iannone:** Right.

**Fletcher:** And I don't think that was afforded this evening.

**Iannone:** It was not. It was not.

**Kane Core Rep:** (not in microphone) Yeah, we were not given the chance to speak again. I think we would like our chance to speak after hearing, after hearing what the Board and their comments. I don't know if we'll get the opportunity to do that and without being face-to-face and hearing discussion because (can not hear speaker) I'm not saying we can't be heard. We can probably make it work but obviously appreciate knowing something's going to happen.

**Fletcher:** As another suggestion. You may elect to table this and bring it back off the table this evening and get to the rest of the agenda. That's another suggestion. But again, if you table it, it still takes your action to pull it off the table.

**Bossio:** Table it, go to the other people and get them taken care of and then bring them back.

**Fletcher:** Jim, does that sound reasonable with your experience.

**Iannone:** Is that acceptable?

**Marino:** We're fine with that.

**Iannone:** I'll accept a motion to table this issue in order to address the other agenda items.

Bossio moved to table the request in order to consider the remaining agenda items. Rockis seconded. Motion approved unanimously. Rockis moved to amend the agenda to place item V06-11 to the end of the agenda. Seconded by Bossio. Motion approved unanimously.

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*The Board of Zoning Appeals recessed at 9:55 P.M. and reconvened at 10:10 P.M. to consider the remaining agenda items. The minutes are summarized for this portion of the meeting*

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**V06-05 / Ammons / 473 Lawnview Drive:** Request by Clorinda Ammons for variance approval from zoning ordinance 300.08, *Accessory Structures and Uses in Residential Districts* for property located at 473 Lawnview Drive; Tax Map #53 Parcel #7, an R-1, Single-family Residential District.

Fletcher read the staff report. He stated that the applicant seeks to construct a detached accessory building that will set in the rear of the property approximately three (3) to four (4) feet from the rear property boundary. He continued that the zoning ordinance states that detached accessory structures cannot be located closer than five (5) feet to the rear property line. Therefore, the applicant is seeking a one (1) to two (2) foot variance

Clorinda Ammons was present and reiterated her request to the Board. She stated that the variance, for 1-2 feet was dependent upon the position of the accessory building. The Board inquired of an adjacent property owner having an accessory structure closer to the property boundary than is required. Ms. Ammons provided pictures with her application.

Iannone asked for public comment. There being none, the Board went into closed session.

Bossio moved to accept the Findings of Facts as submitted by the applicant; seconded by M. Furfari. Motion approved unanimously.

Rockis moved to grant a two-foot variance from the minimum rear yard set back for accessory structures; seconded by Bossio. Motion approved unanimously.

**V06-06 / Logue / 649 Nueva Drive:** Request by Jerry Logue for variance approval from Appendix A: Development Standards Table for property located at 649 Nueva Drive; Tax Map #54 Parcel #137; an R-1, Single-Family Residential District.

Fletcher read the staff report. He stated that the applicants seek to construct a single-family detached dwelling on the subject realty. He stated that the property was originally subdivided in 1993 with no obvious frontage. For purposes of the zoning ordinance, the front of the parcel is considered to be the southern boundary. This parcel contains a 3,942 square foot easement area in what is considered the front of the parcel.

Fletcher stated that the applicants are seeking two variances. The applicant seeks to exceed the maximum front yard set back of thirty (30) feet, which is set forth in the "Development Standards Table" (Appendix A) of the Zoning Ordinance. The proposed structure is situated seventy-five (75) feet from the easement area. As such, the applicant seeks a forty-five (45) foot variance as described in the following table.

He continued that the second request includes a rear yard of fifteen (15) feet for a portion of the structure, not adhering to the required rear yard setback of twenty-five (25) feet, also set forth in the "Development Standards Table" (Appendix A) of the Zoning Ordinance. As such, the applicant seeks a ten (10) foot rear yard variance.

Fletcher stated that an attorney representing Mr. Dinsmore wrote a letter asking the Board to deny the requests. Fletcher also stated that the Department received two letters in support of the variances.

The applicants were present and reiterated their request. Mr. Logue also stated that he agreed with the staff report that the civil matter should not be discussed at the meeting.

Rockis asked Mr. Logue to show the location of the proposed structure on the map that the applicant submitted.

Discussion ensued on the new ordinance requirement of minimum and maximum front yard set back.

Iannone asked for public comment.

Kim Croyle, attorney for Mr. Dinsmore, spoke in opposition of the request. She requested that the Board table the issue until the dispute is settled.

Bossio inquired to Ms. Croyles accusations that the property was never intended to be built upon. Bossio asked why a parcel would be a stand alone property if it never were to be built upon. Discussion ensued on deed restrictions and covenants.

Kathy Barclay, 675 Kenwood Place, spoke in opposition of the rear yard variance.

Roger Barclay, 675 Kenwood Place, spoke in opposition of the rear yard variance and gave the Board a petition signed by people opposed to the variance.

Gail O'Malley-VanVorrison, Popular Drive, spoke in opposition of the variance.

Adolph Adimeyer, 652 Nueva Drive, spoke in favor of the variance.

Gordon Thorn, 669 Nueva Drive, spoke in favor of the variance.

There being no further comments, the Board went into closed session.

Mr. Logue asked the Board not to table the request and discussed the lot size of this and surrounding properties. He also spoke about the minor subdivision that was approved by the Planning Commission in 1993.

Iannone asked the applicant about the rear yard variance and privacy.

Rockis asked Mr. Logue about changing the rear yard variance and coming back to the Board next month. Mr. Logue declined.

Mr. Logue withdrew the request for a rear yard variance.

The Board discussed the development pattern of the area and the large size of the property.

Fletcher read the staff recommendation and the findings of facts.

Finding of Facts were addressed as follows:

#1: Furfari moved to approve as written by applicant; seconded by Shaffer. Motion approved unanimously.

#2: Answer modified to state that the third sentence to read "Parcel was subdivided to follow the setback standards in effect at that time." Motion to approve as amended by Furfari; seconded by Bossio. Motion approved unanimously.

#3: Answer modified to the last sentence to read, "The variance from the maximum front yard setback will allow the house to be placed in such a way that follows the existing pattern of structures within the immediate area." Motion to approve as amended by Rockis; seconded by Bossio. Motion approved unanimously.

#4: Answer modified to word "variances" to make singular. Motion to approve as amended by Rockis; seconded by Bossio. Motion approved unanimously.

Rockis moved to grant a forty-five (45) foot variance from the maximum front yard setback; seconded by Bossio. Motion approved unanimously.

**V06-07 / Woodall / 141 Mingo Street:** Request by Tim Woodall for variance approval from zoning ordinance 300.08, *Accessory Structures and Uses in Residential Districts* for property located at 141 Mingo Street; Tax Map #41 Parcel #253, an R-1A, Single-family Residential District.

C. Fletcher read the staff report. He stated that the applicant seeks to construct a detached accessory building that will set in the rear of the property 3.5 feet from the rear property boundary. He continued that since the zoning ordinance states that detached accessory structures cannot be located closer than five (5) feet to the rear property line, the applicant is seeking a 1.5-foot variance.

Tim Woodall was present and reiterated his variance request.



N. Iannone asked the applicant if he could maintain around the building if given a variance. The applicant stated that there was adequate space.

N. Iannone asked for public comment.

C. Latelle Hall, 1053 Ross Street, spoke in support of the variance.

B. Bossio moved to accept Findings of Facts as submitted by the applicant; seconded by J. Rockis. Motion approved unanimously.

M. Furfari moved to grant a 1.5-foot variance from the minimum rear yard setback for an accessory structure; seconded by J. Rockis. Motion approved unanimously.

**V06-08 / Anderson / 1428 Sabraton Avenue:** Request by Ruby Anderson for variance approval from Appendix A: Development Standards Table for property located at 1428 Sabraton Avenue; Tax Map #31 Parcel #75 & 76; an R-1A Single-Family Residential District.

C. Fletcher read the staff report. He stated that the applicant seeks to construct a ninety-six (96) square foot addition onto the rear of the existing structure and that it exceeds the minimum rear yard setback of twenty (20) feet set forth in the "Development Standards Table" (Appendix A) of the Zoning Ordinance. He continued that the applicant seeks a twelve (12) foot variance.

Dave Anderson, representative for Ruby Anderson, was present and stated that he would like to build his mother a bathroom on the main floor so she can maintain an independent lifestyle. He continued that Kathy White, neighbor, submitted a letter for approval.

N. Iannone asked for public comment. There being none, the Board went into closed session.

J. Shaffer moved to accept Findings of Facts as submitted by the applicant; seconded by J. Rockis. Motion approved unanimously.

J. Rockis moved to grant a twelve (12) foot variance from the minimum rear yard setback requirement; seconded by B. Bossio. Motion approved unanimously.

**V06-09 / Ly / 1125 Van Voorhis Road:** Request by Kurt Ly for variance approval for the expansion of a nonconforming structure at 1125 Van Voorhis Road; Tax Map #6 Parcel #44.01; a B-1, Neighborhood Business.

C. Fletcher read the staff report. He stated that the applicant seeks a variance to expand its non-conforming structure by constructing a 22' X 6' (132 ft<sup>2</sup>) storage area on the southwestern corner of the "Peking House." He continued that Article 405

“Nonconforming Provisions” requires variance approval by the BZA when an expansion increases the extent of its non-conformity and that the proposed expansion does not follow the rear building line of the existing structure; it will extend further into the required rear yard setback. C. Fletcher noted that the proposed addition would also extend into the required five (5) foot side setback. He continued that the applicant is seeking a four (4) foot rear yard set back, a variance of sixteen (16) feet, and a three (3) side yard setback, a two (2) foot variance.

Kurt Ly was present and reiterated his proposal. He stated that he built his building thirteen (13) years ago and that the addition would set inside the existing fence.

B. Bossio asked about the measurements of the addition and how the storage space would be accessed.

N. Iannone asked for public comment. There being none, the Board went into closed session.

B. Bossio moved to accept Findings of Facts as submitted by the applicant; seconded by J. Rockis. Motion approved unanimously.

B. Bossio moved to grant a sixteen (16) foot variance from the minimum rear yard setback requirement and a two (2) foot variance from the minimum side yard setback; seconded by J. Rockis. Motion approved unanimously.

**V06-10 / Luckini-Matteo / Pennsylvania Avenue:** Request by Thomas Luckini and Matteo Magnone for variance approval from Appendix A: Development Standards Table for property located on Pennsylvania Avenue. Tax Map #29 Parcel #150; a B-2, Service Business District. WITHDRAWN BY APPLICANT

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*The Board of Zoning Appeals recessed at 11:30 P.M. and reconvened at 11:45 P.M. The minutes are verbatim for this portion of the meeting as requested by the City Attorney*

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B. Bossio moved to remove CU06-05 and V06-11 from the table; seconded by J. Rockis. Motion approved unanimously.

**Iannone:** I’d just like to open the public section again, momentarily, for the applicant to rebut statements made regarding the application since they were not allowed to do that previously.

**Marino:** Thank you Mr. Chairman. I would just like to take a minute here to remind everybody.

**Iannone:** We’ll give you five minutes to do it.

Marino: I won’t need all five. But thank you. I’d just like to remind everybody why were here again tonight. We’re here for two reasons. One, conditional use approval, which

is based on the eight facts of finding in the conditional use application. Secondly, we're here for a variance for side yard setback on Moreland and Kirk Street. That's all we're here for tonight. I know the issue of parking has been raised and we've talked about it for hours tonight. We have, indeed, provided parking. Some folks may not think it's sufficient because it's off site, but we've gone over and above what the zoning requires us to do. And we've gone to great lengths to provide that parking. We've heard several arguments here tonight that we should reduce the height from nineteen stories, to some floor height, and density that's going to make some protestants happy here in the crowd. And they've said over and over build two ten story buildings and all your issues will go away. You won't need to provide parking and you won't hear from us any more here tonight. We'll be happy and we'll go home. This is not an issue of protestants protecting the public health, safety, and welfare. They're protecting their own interest and trying to block our project with illogical arguments on parking and illogical arguments on planning assumptions. This project, without parking eliminates many of problems association with the automobile and by providing on site parking, if we were, we will exasperate and existing parking in downtown Morgantown. We're creating a pedestrian orientated community and we want to be treated fairly. And in the downtown B-4 District, we do not need to provide any parking, but we have. It may be off site, but parking is provided. I would like to please ask this Board to focus their discussion on the eight facts of finding and the variance request and treat the Riverview Project fairly and objectively. And again, thank you for your consideration tonight and I appreciate everyone staying late here trying to hammer this one out. Thank you.

**Iannone:** Thank you. Well, we have gone round and round on this issue of parking. Perhaps the best way to address this issue is through the findings of facts. How do you feel about that? Do you think that's a good idea Mark?

**Furfari:** Yes.

**Iannone:** Good.

**Fletcher:** Read the findings of fact?

**Iannone:** Please.

**Fletcher:** Let me read the recommendation and I'll read the findings of fact.

**Iannone:** Absolutely.

Fletcher read the staff recommendation and discussed his memo covering Terry Hough's comments concerning the Traffic Impact Analysis.

The Findings of Fact were read and discussed as follows:

**Finding of Fact #1:**

Fletcher read the question and response.

**Shaffer:** I have a question on congestion that the loading for the retail places is going to be done on University Avenue? If I understood that correctly.

**Iannone:** Well, they'll have to access through the doors on University but I think they'll probably need some kind of situation where the truck would park on one of those side streets. Unload and walk it around the building. That would be my expectation. I see that as a bit of a problem myself.

J. Shaffer moved to accept as submitted by the applicant; motion died for lack of a second.

**Iannone:** What do you think Mark?

**Furfari:** I think that there will be a lot more congestion in the streets. And it's a one way street.

**Iannone:** Why do you think that?

**Furfari:** Well, have you ever driven by towers on a day. (coughing into the microphone) there's probably thirty cars parked in that loop. There's probably thirty cars parked in that loop of each of those dorms. And those dorms are half the, a fourth the size. There'll be a lot of people trying to get in and out of that building. So, I think they'll be congestion on Chestnut.

**Iannone:** So you cannot find this in the positive.

**Furfari:** I'm having difficulty with the congestion.

**Iannone:** Do you want to make a, a motion in the negative?

**Rockis:** I will and see what happens here.

**Iannone:** Why not.

**Rockis:** I will. My opinion though is congestion in the streets will be increase in that I feel that there is not adequate parking in order to properly handle the, the individuals in this, in this facility.

(J. Rockis moved to find in the negative in that the lack of on-site parking would result in increased congestion in the streets; motion died for a lack of second.)

**Iannone:** Can I get a second to that motion?

**Fletcher:** I'm confused. Did you second Jim's motion to?

**Iannone:** No.

**Rockis:** There was never a motion on the floor.

**Fletcher:** Yes there was. Jim made a motion.

**Iannone:** I could not get a second.

**Fletcher:** OK, so it died for a lack of a second.

**Shaffer:** It died for lack of a second.

**Fletcher:** OK, so I can keep up, you made a motion to do what again?

**Rockis:** I made a motion to, I made a motion to, to that this does create congestion in the streets and that there is not adequate parking in order to, to meet the needs of this facility.

**Iannone:** So finding in the negative for the first finding of fact. And I can't get a second to that motion either.

**Furfari:** He's talking about parking.

Unintelligible.

**Rockis:** Mark, why don't you make a motion of what you feel, you know, if the congestion in the street and see how that flies.

**Iannone:** You really feel that the, use the Towers as an example. I know that it's true that the loops in front of the Towers generally are filled with cars. But I don't know what the name of that street is that runs parallel to the PRT there. But I've never seen it.

**Shaffer:** Rawley?

**Iannone:** No, Rawley runs parallel to University. I've never seen those cars in that loop have negative impact on that street. It's always the cars are in that loop and it's congested in that loop but the street is not impacted by it.

**Furfari:** (more than one person speaking) five cars.

**Iannone:** And that's, that's stretching it really.

Unintelligible.

**Iannone:** If there is room for five cars in there, do you see that as a problem?

**Shaffer:** Plus we have the loading area that can be accessed off of Kirk there on the second or third level; I can't remember which one it was. Third, second level I believe.

**Iannone:** If there's cars in that loop their not impacting the traffic on Chestnut Street. Is that a problem?

**Furfari:** No. If there are cars in that loop, and they're not on Chestnut. That's right.

**Iannone:** Do you think that they would?

**Furfari:** I think that people will either move their car or find a place to drop it while they do their business in this building. And that may be in the parking garage. It's probably where it should be.

**Iannone:** Right. I think it's also. We have the representative from the Parking Authority tell us that and it's been my experience that the availability on those streets as the downtown exist right now is available. You can generally find a parking space on those streets during the day in downtown. So, is that a problem if those spaces begin to be occupied by those people who are running into this building for a period of time?

**Furfari:** No. Of course not. Those are legal parking spaces.

**Iannone:** So then, you don't have a problem with congestion or you still do?

**Furfari:** I'm struggling with congestion.

**Iannone:** I see that. I see that.

**Furfari:** Struggling.

**Iannone:** Well, I think you need to (more than one person speaking) Articulate what it is that you really see the problem as being. I mean, obviously there is going to be traffic generated by this building. Do doubt.

**Furfari:** Right.

**Iannone:** Because there is people living there.

**Furfari:** There'll be congestion generated.

**Iannone:** Well, traffic and congestion are two different things

**Furfari:** No, I don't think so. I think it's the same thing.

**Iannone:** Right, we've required a traffic motion, a traffic impact study. We've had two motions that have died due to lack of a second.

**Furfari:** OK.

**Iannone:** I was hoping that you would propose another motion, myself. But we are committed to a traffic study by the City Engineer as a condition for approval of this. Does that make you feel any better, or not at all?

**Rockis:** Why don't we go the other way then by one of you, you know, there's others here maybe they will make a motion that there is not congestion in the streets and see what happens.

**Iannone:** You're right about that. You are right about that.

**Rockis:** Make a move.

**Iannone:** Well, gentleman, I'm all ears.

**Bossio:** Can I ask a question?

**Iannone:** Certainly.

**Bossio:** If it were a ten story building.

**Iannone:** Right.

**Bossio:** Could they build it without even having a turn off? Would they? Is there even a requirement to be able to do a drop off area?

**Iannone:** I doubt it.

**Fletcher:** No. There is no requirement for drop off. No matter what the height.

**Iannone:** What's your, what's your point Bernie?

**Furfari:** I think for the convenience of their customers.

**Bossio:** I, I, you know I'm still struggling with the issue that we talked about before. And that's really, that's really my biggest struggle is saying. Next week, it could possibly be property I am involved in. I want to build something down there and not have the require. We're in a B-4 district at the top of High Street.

**BZA Member:** Right.

**Bossio:** Do I want this Board regulating and telling me I have to provide parking spaces?

**Iannone:** Well, you're going back to this idea of legislating. We're not here to legislate. We're here to, you know, work within the ordinance as it's written. Not writing it.

**Bossio:** As it's written?

**Iannone:** As it's written. Like it or not.

**Bossio:** Does somebody want to put a motion back out on the floor? Jim?

Shaffer moved to accept as submitted by the applicant; seconded by Bossio; motion passes 3-2.

**Finding of Fact #2:**

Fletcher read the question and response.

**Iannone:** Anyone have a problem with that? Can I get a motion?

Rockis moved to accept as submitted by the applicant; seconded by Furfari. Motion approved unanimously.

**Finding of Fact#3:**

Fletcher read the question and response.

Shaffer moved to accept as submitted by the applicant; seconded by Rockis. Motion approved unanimously.

**Finding of Fact #4:**

Fletcher read the question and response.

Shaffer moved to accept as submitted by the applicant; seconded by Rockis. Motion approved unanimously.

**Finding of Fact #5:**

Fletcher read the question and response.

**Iannone:** This may be another issue. Does anyone got a problem with any of that language?

Shaffer moved to accept as submitted by the applicant; seconded by Rockis. Motion approved unanimously.

**Finding of Fact #6:**

Fletcher read the question and response.

Shaffer moved to accept as submitted by the applicant; seconded by Bossio. Motion approved unanimously.

**Finding of Fact #7:**

Fletcher read the question and response.

Furfari moved to accept as submitted by the applicant; seconded by Shaffer. Motion approved unanimously.

**Finding of Fact #8:**



Fletcher read the question and response.

Shaffer moved to accept as submitted by the applicant; seconded by Furfari. Motion approved unanimously.

Shaffer moved to grant the conditional use with the condition that the Traffic Impact Study be amended to the satisfaction of the City Engineer; seconded by Bossio. Motion passed 4-1.

**V06-11 / Kane-Core / University Avenue:** Request by Kane-Core for variance approval from Appendix A: Development Standards Table for property bounded by University Avenue, Chestnut Street, Moreland Street, and Kirk Street; Tax Map #28A Parcels #27, 28, 29, 30, 31; a B-4, General Business District.

Fletcher read the staff report.

**Marino:** I don't know how much more detail you'd like me to go into on those set backs. But part of the reason for pushing the building to the width that it is, is to make that Courtyard as wide as we possibly can. I think some of the numbers you are seeing, and Chris accurately pointed it out, may be a little deceiving on the one side. On Moreland Street because we have to take into consideration the projection of the multi-purpose room that will over look the City. That's why that variance looks bigger than it actually is. And the other side is just a straight variance on Kirk Street. The building will actually sit five, I believe five feet from the curb line there. That's why we're seeking that two foot variance there.

**Shaffer:** So the variance is on the push out on those window.

**Fletcher:** OK. The Moreland Street, because of the seventeen floor projection.

**Shaffer:** OK.

**Fletcher:** OK, and on Kirk Street there is no projection. Correct? I'm looking.

**Marino:** Correct. The building actually.

**Fletcher:** I don't have my glasses on.

**Marino:** The building actually sits right there. It's deceiving on the other side of the street just because of that projection, which keep in mind, is seventeen stories above you.

**Kane Core Rep:** Can elaborate a little on the front and rear even though it's zero. That's really just a bay window that are at the ends. Along Chestnut we actually have a significant setback at the street to accommodate pedestrians. We have some additional

widening on the side walk area along University as well. The intent was to trade off. (not speaking into microphone, unintelligible).

**Fletcher:** Just to clarify, there is a significant, to use your term, a significant set back on that main level. The street level. But above it there are projections that would extend into that. And that the canopy is shown on the site plan actually goes to the property line. So that's why the staff report zero rear required, zero provided.

**Kane Core Rep:** Our view point is though is really important to have the ground claim where people are walking and there is site distances for vehicles.

**Rockis:** Question for the planner. Do they meet all of their corner vision triangle measurements?

**Fletcher:** They do on Moreland and Kirk. No, Chestnut, Moreland and Chestnut, Kirk and Chestnut, at Moreland and University it's a right out only so they don't. because the buildings in the way there. Are you following me? If you're going right it's there building in the way. And if you're on Kirk coming to University, it has no impact because you're looking the other direction on a right out only. Assuming the Traffic Commission and City Council make that a right out only. As what was recommended in the traffic study. Now, the Engineer, the City Engineer has made, has in the past had the ability to waive that site triangle because the ordinance is twenty five feet. And there isn't a corner, let me refrain that. I don't know of a corner downtown, within the built environment that has a twenty five foot site triangle setback.

**Rockis:** Well, is that something that, that, that. See, this is new. Because we use to use fifteen feet I believe what we used to use. Are you saying it's twenty-five?

**Fletcher:** Yes. It's twenty-five now, but the City Engineer, I believe has the ability, based on the existing circumstances to twenty-five foot, but it's not a hard and fast rule. It's my understanding. And, as you have said, I think that has been the past practice. And again, the City Engineer had never, and we've had two or three technical, lengthy Technical Review Committee meetings with her and she never once mentioned, under that current configuration, that would be problematic.

**Rockis:** There are several things we're going to have to, I can see down the road, we're going to have to talk about.

**Bossio:** I agree.

**Rockis:** I'm not going to hold this up because of that so. There's, there's several things we're going to have to discuss.

**Fletcher:** From a policy standpoint?

**Rockis:** Yes sir.

**Fletcher:** OK.

**Iannone:** Why don't you give us the staff recommendation?

**Fletcher:** Did we have public comment?

**Iannone:** Sorry.

**Fletcher:** I don't think we did. He did his presentation. (more than one person speaking)

**Iannone:** Sorry. Is there anybody here who would like to speak to this request? No one. That being the case, we're going into close session. Now?

Fletcher read the staff recommendation.

**Fletcher:** Would you like me to go through those findings of fact at this time?

**Shaffer:** Hold on a second.

Shaffer moved to accept all the Findings of Facts as submitted by the applicant; seconded by Bossio. Motion approved unanimously.

Shaffer moved to grant a 4.5-foot variance from the minimum side yard setback requirement along Moreland Street and a 2.5-foot variance from the minimum side yard setback requirement along Kirk Street; seconded by Bossio. Motion approved unanimously.

**Marino:** I would just like say thank you gentlemen. I appreciate length of time you spent tonight deliberating. You brought up many valid points and we're going to take all them to heart and make this project a success for everybody. Thank you again.

Public Comments: None

Staff Comments: None

Meeting adjourned 12:25 P.M.